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TITLE XV - HEALTH AND ENVIRONMENT

ARTICLE 1 - TRIBAL ENVIRONMENTAL POLICY

- Reserved -

ARTICLE 2- WATER QUALITY STANDARDS

Sec. 15-2-1 Purpose

The Tribal Council recognizes that the Pueblo's clean waters are an extraordinary resource and wishes to ensure their protection so that traditional and cultural uses of those waters may continue. The Tribal Council wishes to protect the health, safety, welfare, and environment of the Pueblo, its people, and residents. The Tribal Council therefore enacts these Water Quality Standards in order to prevent, reduce, and eliminate pollution of surface waters of the Pueblo and to plan the development and use (including restoration and enhancement) of land and water resources within the Pueblo's jurisdiction by:

A. Designating the existing and attainable uses for which the surface waters of the Pueblo shall be protected;

B. Prescribing water quality standards to sustain these designated uses and to provide for the protection and propagation of fish and wildlife and recreation in and on the water;

C. Protecting other uses of surface waters of the Pueblo, such as irrigation, ceremonial, domestic water supply, and recharge of domestic water supply, provided that pollution that may result from such uses shall not lower the quality of the water below that required for recreation and protection and propagation of fish and wildlife; and

D. Assuring that degradation of surface waters of the Pueblo shall be minimized and that economic growth shall occur in a manner consistent with the preservation of the Pueblo's existing clean water resources.

These purposes shall be accomplished by incorporating and applying the standards set forth herein into the permitting and management process for point source dischargers and non-point source generators, by using those standards to determine when a designated use is threatened, by using current treatment technologies to control point sources and best management practices for non-point sources of pollution, and by monitoring point source and non-point source sources of pollution.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-2 Applicability

The Water Quality Standards apply to all surface waters of the Pueblo on Pueblo Lands, including water situated wholly or partly within, or bordering upon Pueblo Lands. The Water Quality Standards apply to substances attributable to discharges non-point sources or in-stream

activities. The Water Quality Standards shall not apply to acts of God or natural phenomena not brought about by human activity.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-3 Consistency with Federal Requirements

The Water Quality Standards are consistent with Section 101(a)(2) of the Clean Water Act (33 U.S.C. Section 1251 (a)(2)) which declares that “it is the national goal that, wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.” The Water Quality Standards provide that any contamination that may result from any uses shall not lower the quality of the water below what is required for recreation and protection and propagation of fish, shellfish, and wildlife.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-4 Wetlands

All wetlands within the Pueblo Lands, with the exception of wetlands constructed for the repository or treatment of wastes from human sources, are considered surface waters of the Pueblo. All wetlands will be held to the standards necessary to support the biological and physical characteristics naturally present within the wetlands. Wetlands will be protected to prevent significant adverse impacts on:

- A. Water flow and circulation, erosion, or sedimentation patterns;
- B. Natural water temperature variations;
- C. The chemical, nutrient and dissolved oxygen regime of the wetland;
- D. The normal movement of aquatic fauna;
- E. The pH of the wetland; and
- F. Normal water levels or elevations.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-5 Antidegradation

The Antidegradation policy for surface waters of the Pueblo and the procedures for implementing it are set forth in Sec. 15-2-17.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-6 Public Hearings

Pursuant to Section 303(c)(1) of the Clean Water Act (33 U.S.C. Section 1313(c)), the Pueblo shall hold public hearings at least once every three years for the purpose of reviewing and, as appropriate, amending the Water Quality Standards. The Water Quality Standards shall be reviewed once every three years following enactment. Revisions shall incorporate new information and relevant scientific and engineering advances.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-7 Water Rights

The right of the Pueblo to certain quantities of water and the authority of the Pueblo to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by these Standards. The Pueblo will cooperate with federal and state agencies to prevent, reduce, and eliminate water pollution in coordination with programs for managing water resources.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-8 Applicability of Uses

Designated uses shall be protected at all times including periods of low flow. The rivers, streams, and arroyos of the Pueblo are all intermittent or ephemeral, with the exception of the Rio Grande. When ephemeral and intermittent streams have a low flow value of zero, all flows shall meet standards for the designated uses. The critical low flow of the Rio Grande (a perennial stream) on the Pueblo shall be the minimum average four consecutive day flow which occurs with a frequency of once in three years (4Q3) as measured at the Rio Grande below Cochiti Dam (USGS Gage Number 08317400). All discharges to the Rio Grande shall meet standards for the designated uses at the 4Q3 low flow. For standing bodies of water, standards particular to a use shall be maintained whenever the water body is suitable for the use. The General Standards, Sec. 15-2-19, shall be maintained at all times and shall apply to all surface waters of the Pueblo, whether perennial, ephemeral, or intermittent in nature. The standards assigned to a body of water shall be the most stringent standards required to protect all uses designated for that body of water. Reservoirs used for water treatment are exempt from these standards, provided, however, that the water released from any such reservoir meets the standards that apply to the receiving body of water.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-9 Human Health Implementation

For use in implementation of human health criteria, the harmonic mean flow will be used. The harmonic mean flow is the number of daily flow measurements divided by the sum of the reciprocals of the flows (i.e., the reciprocal of the mean of reciprocals). In ephemeral waters, the calculation shall be based upon the nonzero flow intervals and modified by including a factor to adjust for the proportion of intervals with zero flow. The equations are as follows:

Harmonic Mean

$$\frac{n}{\sum \frac{1}{Q}}$$

=

Where: n =
values
and Q =

number of flow

flow value (efs)

$$\left[\frac{\sum_{i=1}^{N_t - N_0} \left(\frac{1}{Q_i} \right)}{N_t - N_0} \right]^{-1} \times \left[\frac{N_t - N_0}{N_t} \right]$$

Modified

Harmonic Mean

=

Where: Q_i = nonzero flow
 N_t = total number of flow values
and N_0 = number of zero flow values

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-10 Discharge Requirements

Water quality standards shall be the basis for managing discharges attributable to point and non-point sources of pollution. Water quality standards are not used to control, and are not invalidated by, natural background phenomena or acts of God.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-11 Use Attainability

In the event that monitoring of water quality identifies reaches where attainable water quality is less than what is required by the Water Quality Standards, then the Pueblo may modify the Water Quality Standards to reflect attainability. Modification thereof shall be within the sole discretion of the Pueblo but shall be subject to the provisions of the Clean Water Act and shall be carried out in accordance with use-attainability analysis procedures, development of a site-specific standard, or other appropriate methods.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-12 Authority

The Tribal Council has exclusive authority to adopt and modify the water quality standards. The Tribal Council also may revise the standards from time to time if deemed necessary by use-attainability analysis and as the need arises, or as a result of updated scientific information.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-13 Correction of Errors in Standards

The Pueblo will correct any errors resulting from inadequate and erroneous data. The discovery of such errors will not affect the validity of remaining and unaffected standards. If any provision of the Water Quality Standards, or the application of any provision of these Water Quality Standards to any person or circumstance, is held to be invalid, the application of such provision to other persons and circumstances and the remainder of the Water Quality Standards shall not be affected thereby.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-14 Compliance Schedules

When requested, the Pueblo shall consider on a case-by-case basis, whether a compliance schedule can be incorporated in an existing National Pollutant Discharge Elimination System (“NPDES”) permit. Such a schedule of compliance will be for the purpose of providing a permittee with adequate time to make treatment facility modifications necessary to comply with the Pueblo water quality standards. Compliance schedules may be included in NPDES permits at the time of permit renewal issuance or modification and shall require compliance at the earliest practicable time. Compliance schedules also shall specify milestone dates so as to measure progress towards final project completion.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-15 Short-term Exceedances

The Tribal Council may authorize Short Term Exceedances by allowing activities that may cause temporary violations of the water quality standards if the Pueblo determines these activities are necessary to accommodate legitimate uses or emergencies, or to protect the public health and welfare. A short-term exceedance will only be allowed for activities that are not likely to cause permanent, or long-term impairment of a designated use or beneficial uses. Such activities include, but are not limited to bank stabilization, grade control, wetlands restoration, algae and weed control, hydrological studies that use tracers, or activities that result in overall enhancement of or maintenance of designated uses or beneficial uses. The Pueblo shall specify the degree of exceedance, the time limit, and where applicable, restoration procedures. Such authorization shall not be granted for activities which could result in the adverse impact on any federally endangered or threatened species or on the critical habitat of such species or which could result in the irreversible degradation of the water quality. Nothing herein shall be intended to supercede existing Pueblo and federal permitting processes or requirements.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-16 Pueblo Policy

The Pueblo supports the goals of the Clean Water Act and will strive to preserve, protect, and restore the water resources of the Pueblo in their most “natural condition.” Tribal management efforts will be consistent with preserving, protecting, and restoring the most natural aquatic and wildlife communities for surface waters of the Pueblo. In all cases, established and existing uses and/or biological conditions will be protected pursuant to the Pueblo’s “Antidegradation Policy.”

Enacted by Resolution No. 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-17 Antidegradation Policy

The antidegradation policy of the Pueblo is as follows:

A. Existing uses and water quality levels necessary to protect existing uses shall be maintained and protected.

B. Where existing water quality exceeds levels necessary to support propagation of fish and wildlife and recreation in and on the water, that level of water quality shall nonetheless be maintained and protected unless it is found, after full satisfaction of governmental and public participation requirements, that a lower level of water quality is required in order to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation of water quality, the Pueblo shall impose the highest statutory and regulatory requirements for point sources and shall impose best management practices for non-point sources.

C. The Pueblo shall require the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable management practices for nonpoint source control.

D. Where high quality water constitutes an exceptional recreational, cultural, or ecological resource, those waters may be designated as Outstanding Tribal Resource Waters. No permanent degradation of Outstanding Tribal Resource Waters shall be permitted from their current condition for any reason.

E. In those cases where potential water quality impairments associated with thermal discharge are involved, the antidegradation policy and implementation method shall be consistent with Section 316 of the Clean Water Act, as amended, (33 U.S.C. Section 1326 (1987)).

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-18 Implementation Plan

Acting under authority delegated by the Tribal Council, the Pueblo Department of Natural Resources (DNR) shall implement the Water Quality Standards, including the antidegradation policy, by establishing and maintaining controls on the introduction of pollutants into surface waters of the Pueblos. More particularly, the DNR shall do the following:

A. monitor water quality (chemical, physical, and biological) to assess the effectiveness of pollution controls and to determine whether water quality standards are being attained;

B. evaluate the impact of effluents on receiving waters;

C. advise prospective dischargers of discharge requirements;

D. review the adequacy of the existing data base identifying the Pueblo's waters, the data available to determine the quality of those waters and to compare to the designated uses for those waters, and obtain additional data when required;

E. require the Best Available Technology (BAT) of wastewater treatment practicable to protect and maintain designated uses and existing water quality consistent with long-term environmental protection objectives;

F. develop water quality-based effluent limitations and comment on technology-based effluent limitations, as appropriate, for inclusion in any federal permit issued to a discharger pursuant to Section 402 of the Clean Water Act (33 U.S.C. Section 1342), and review of Section 404 permits of the Clean Water Act (33 U.S.C. Section 1344);

G. require that these effluent limitations be included in any such permit as a condition for Tribal certification pursuant to Section 401 of the Clean Water Act, (33 U.S.C. Section 1341), provided that a reasonable time for compliance may be considered as part of the certification process for any existing permits.

H. coordinate water pollution control activities with other tribal, local, state, and federal agencies, as appropriate;

I. develop and pursue an inspection program and enforcement strategy in order to ensure that National Pollutant Discharge Elimination Systems (NPDES) dischargers comply with requirements of the Clean Water Act (CWA) and the Water Quality Standards and any requirements promulgated thereunder, and in order to support the compliance and enforcement of Federal NPDES permits by the U.S. Environmental Protection Agency;

J. encourage voluntary implementation of best management practices to control non-point sources of pollutants to achieve compliance with the Water Quality Standards;

K. ensure that the provisions for public participation required by these Standards and the Clean Water Act are followed;

L. determine if instream flows are adequate to support designated uses and meet narrative and numeric water quality standards, and if surface and groundwater withdrawals cause or contribute to degradation of unique surface or ground waters, in coordination with the Water Resources Division Manager;

M. implement policies and procedures to protect designated Outstanding Tribal Resource Waters according to an implementation plan approved by the Tribal Council;

N. if necessary, in consultation with the WRDM and subject to the approval of Tribal Council, designate streams as perennial, intermittent or ephemeral and determine numeric low flow values; and

O. provide technical oversight and planning support to other departments within the Pueblo's administration in order to accomplish the objectives of the Water Quality Standards. These departments may include Santa Ana Gaming Commission, Hospitality, Southern Sandoval Investments, Tamaya Housing, Tribal Resources, Wellness, Agriculture, Natural Resources, Education and Maintenance.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-19 General Standards

Surface waters of the Pueblo shall be free of any water contaminant in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life, or property, or unreasonably interfere with the public welfare or the use of the property. The following narrative standards apply to all surface waters of the Pueblo, unless stricter or additional standards are imposed in Sec. 15-2-20 and Sec. 15-2-21 below.

A. Stream Bottom Deposits

Surface waters of the Pueblo shall be free from water contaminants from other than natural causes that may settle and have a deleterious effect on the aquatic biota or that will significantly alter the physical or chemical properties of the water or the bottom sediments.

B. Floating Solids, Oil, and Grease

Surface waters of the Pueblo shall be free from objectionable oils, scum, foam, grease, and other floating materials and suspended substances resulting from other than natural causes (including visible films of oil, globules of oil, grease, or solids in or on the water, stream bottom or coatings on stream banks or that would damage or impair the normal growth, function or reproduction of wildlife, plant or aquatic life). In addition to discharges that result in visible films of oil, oil and grease discharged into surface waters of the Pueblo shall not exceed 10 mg/liter average or 15 mg/liter maximum.

C. Color

Surface waters of the Pueblo shall be free from true color-producing materials from other than natural causes that create an aesthetically undesirable condition. Color shall not impair the designated and other attainable uses of a water body. Color-producing substances from other than natural sources are limited to concentrations equivalent to 70 color units (CU).

D. Odor and Taste

Contaminants from other than natural causes may not impart unpalatable flavor to fish and may not result in offensive water odor or taste (organoleptic effects), or otherwise interfere with the designated and other attainable uses of a water body. Taste and odor-producing substances from other than natural origins shall not interfere with the production of a potable water supply by modern treatment methods.

E. Nuisance Conditions

Plant nutrients or other substances stimulating algal growth from other than natural causes shall not be present in concentrations that produce objectionable algal densities or nuisance aquatic vegetation, or that result in a dominance of nuisance species in stream, or that cause nuisance conditions in any other fashion. Phosphorus and nitrogen concentrations shall not be permitted to reach levels which result in man-induced eutrophication problems. As a guideline, total phosphorus shall not exceed 100 µg/liter in streams or 50 µg/liter in lakes and reservoirs. Alternative or additional nutrient limitations for s surface waters of the Pueblo may be established by the Pueblo and incorporated into water quality management plans.

F. Pathogens

Surface waters of the Pueblo shall be free of pathogens from other-than-natural causes in sufficient quantity to impair public health or the designated, existing uses of a surface water of the Pueblo.

G. Turbidity

Turbidity attributable to other than natural causes shall not reduce light transmission to a point where aquatic biota are inhibited or alter color or visibility to a point that causes an unaesthetic and substantial visible contrast with the natural appearance of the water. Specifically, turbidity shall not exceed 5 NTU over background when background turbidity is 50 NTU or less, with no more than a ten percent (10%) increase when background turbidity is more than 50 NTU.

H. Mixing Zones

Where effluent is discharged into surface waters of the Pueblo, a continuous zone shall be maintained in which the water is of adequate quality to allow the migration of aquatic life with no significant effect on their population. The cross-sectional area of effluent mixing zones shall be 1/4 or less than the cross-sectional area or flow volume of the receiving stream. Mixing zones are not allowed in lakes. Mixing zones containing permitted effluent shall not overlap locations of recreational or ceremonial activities. (*See* Sec. 15-2-20). Water quality standards shall be maintained throughout zones of passage. Zones of passage in intermittent streams may be designated on a site-specific basis. The water quality in a zone of passage shall not be permitted to fall below the standards for the designated water body within which the zone is contained. With regard to toxicity in mixing zones, see Sec. 15-2-19(O), below.

I. Radioactive Materials

Concentrations of gross alpha particle activity shall not exceed the concentration caused by naturally occurring materials. Sources, special nuclear, and by-product materials as defined by the Atomic Energy Act of 1954 are excluded from this provision.

Table III:I-1. Radioactive Material Criteria.

Radiation Source or Radionuclide	Limit (pCi/L)
Radium-226 and Radium-228	5
Radon	300
Strontium-90	8
Tritium	20,000
Uranium	30
Gross Alpha*	15
Gross Beta**	50

pCi/L = (picoCuries per liter)

* Gross alpha particle concentrations, including Radium-226 but excluding radon and uranium, shall not exceed 15 picocuries per liter.

** The average annual concentration of beta particles and of photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than 4 millirem/year.

J. Temperature

The introduction of heat by other than natural causes shall not increase the temperature in a stream, outside a mixing zone, by more than 2.7°C (5°F), based upon the monthly average of the maximum daily temperatures measured at mid-depth or three feet (whichever is less) outside the mixing zone. In lakes, the temperature of the water column or epilimnion (if thermal stratification exists) shall not be raised more than 1.7°C (3°F) above that which existed before the addition of heat of artificial origin, based upon the average of temperatures taken from the surface to the bottom or surface to the bottom of the epilimnion (if stratified). The normal daily and seasonal variations that were present before the addition of heat from other than natural sources shall be maintained. In no case shall man-introduced heat be permitted when the maximum temperature specified for the reach (25°C/77°F for cool-water aquatic life/fisheries and 32.2°C/ 90°F for warmwater aquatic life/fisheries) would thereby be exceeded. Privately-owned lakes and reservoirs used in the process of cooling water for industrial purposes may be classified using a less stringent special-use standard for thermal components, provided, however, that the water released from any such lake or reservoir into a stream system meets the water quality standards of the receiving stream.

K. Salinity/Mineral Quality (Total Dissolved Solids, Chlorides, and Sulfates)

Existing mineral quality shall not be altered by municipal, industrial, and in-stream activities, or other waste discharges so as to interfere with the designated or attainable uses for a water body. In no case shall an increase of more than 1/3 over naturally-occurring salinity/mineral levels be

permitted, nor shall dischargers cause concentrations on streams with a domestic water supply use to exceed 250 mg/L for chlorides; 250 mg/L for sulfates; and 500 mg/L for total dissolved solids.

L. pH.

The pH of a stream or lake shall not be permitted to fluctuate in excess of 1.0 unit over a period of 24 hours for other than natural causes.

M. Dissolved Oxygen

If a surface body of water is capable of supporting aquatic life, the dissolved oxygen standard will be a minimum of 5 mg/l. Dissolved oxygen values can be lower if caused by natural conditions and not an impairment to the native aquatic life.

N. Nitrogen and Other Dissolved Gases

Surface waters of the Pueblo shall be free of nitrogen and other dissolved gases at levels above 110% saturation when this supersaturation is attributable to municipal, industrial, or other discharges.

O. Toxic Substances

Toxic substances shall not be present in receiving waters in quantities that are toxic to human, animal, plant, or aquatic life, or in quantities that interfere with the normal propagation, growth, and survival of the sensitive indigenous aquatic biota. Within the mixing zone, there shall be no acute toxicity. There shall be no chronic toxicity at the edge of the mixing zone.

Water quality criteria for toxic substances in surface waters of the Pueblo with primary contact, aquatic life uses, domestic water supply use, or from which fish are caught for human consumption are found in Appendix A. The temperature and pH-dependent values for the ammonia criteria for aquatic life uses are designated in Appendix B.

1. For toxic substances lacking EPA published criteria, biomonitoring data may be used to determine compliance with this narrative standard in accordance with EPA standard acute and chronic biological test protocols. These protocols can be found in:

a. *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, EPA-821-R-02-012; October 2002, or the most current revision thereof;

b. *Short Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms*; EPA-821-R02-013; October 2002 or the most current revision thereof;

c. *Technical Support Document for Water Quality-Based Toxics Control*, EPA/505/2- 90001; March 1991, or the most current revision thereof;

d. *Post Third Round NPDES Permit Implementation Strategy*; approved October 1, 1992, or the most current revision thereof; and

e. U.S. Environmental Protection Agency, “*Quality Criteria for Water*,

1986", or the most current revision thereof.

2. Should numeric criteria need to be derived without actually conducting toxicity tests, the AQUIRE (AQUatic toxicity Information REtrieval) database and EPA's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and their Uses*, will be applied to calculate any criteria. In the event that sufficient data is not available to derive a numeric criterion following the above protocol, toxicological study results may be used to calculate a criterion based on the following methods:

- a. Concentrations of non-persistent toxic materials shall not exceed concentrations which are chronically toxic (as determined from appropriate chronic toxicity data, or calculated as ten percent of the LC50 values) to representative, sensitive, aquatic organisms;
- b. Concentrations of persistent toxic materials that do not bioaccumulate, bioconcentrate, or biomagnify, shall not exceed concentrations which are chronically toxic (as determined from appropriate chronic toxicity data or calculated as five percent of the LC50 values) to representative, sensitive, aquatic organisms;
- c. Concentrations of toxic materials that bioaccumulate, bioconcentrate, or biomagnify shall not exceed concentrations which are chronically toxic (as determined from appropriate chronic toxicity data or calculated as one percent of the LC50 values) to representative, sensitive, aquatic organisms;
- d. Toxicants in receiving waters that are known to be persistent, bioaccumulative, carcinogenic, and/or synergistic with other waste stream components shall be addressed on a case-by-case basis. Sources of information include final or draft MCLs and current Health Advisories (HA) for organic and inorganic chemicals, radionuclides and microorganisms.

P. Biocriteria

Biological integrity, the protection of aquatic communities in their most natural condition, shall be protected and maintained through this narrative statement. Biocriteria, including sampling of aquatic communities and the use of multi-metric indices, will be applied to protect all categories of waters with an aquatic life use. The application of biological criteria will be based on the requirement that the biological integrity of waters impacted by point source pollution, non-point source pollution, and other anthropogenic factors will not be significantly impaired when compared to least impacted watersheds that are otherwise similar in their characteristics. The biological community structure, function, and habitat of waters shall be restored to and/or protected and maintained at the highest potential use. Reference locations will be selected representing natural conditions in which indigenous aquatic communities are healthy and can reproduce fertile offspring. The biological integrity of the surface waters of the Pueblo, as measured by multi-metric indices of benthic macroinvertebrates, fish, periphyton, or other appropriate indicators, shall not significantly differ from reference waters, taking into account variability. A significant adverse alteration of the biological integrity of the waters constitutes a violation of these water quality standards.

Q. Sediment Quality

Man-made or man-induced activities shall not result in sediment with contaminants at concentrations which are toxic if absorbed by aquatic biota, livestock, wildlife or man or in

quantities that interfere with normal propagation, growth, and survival of the existing aquatic biota. The chemicals listed in Table III: Q-1 serve as a guideline in order to identify a concentration that if discovered might cause unacceptable ecological risks for aquatic biota and would warrant further investigation into the source and assist in clean-up of existing sediment contamination. These numeric values will be incorporated as part of the Pueblo's water quality monitoring program and are not intended to be used in the calculation of effluent limitations in NPDES permits at this time.

Table III: Q-1. Sediment Quality Guidelines Above Which Harmful Effects Are Likely to Be Observed in Aquatic Life.*

Metals	Limit (mg/Kg)
Arsenic	33.0
Cadmium	4.98
Chromium	111.0
Copper	149.0
Lead	128.0
Mercury	1.06
Nickel	48.6
Zinc	459.0
Organic Chemicals	Limit (mg/Kg)
Total Polycyclic Aromatic Hydrocarbons	22.8
Total Polychlorinated Biphenyls	0.68

mg/Kg = (milligrams per kilogram dry weight)

*MacDonald, D.D., C.G. Ingersoll, and T. Berger.2000. Development and evaluation of consensus-based sediment quality guidelines for freshwater ecosystems. Archives of Environmental Contamination and Toxicology 39:20-31.

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Sec. 15-2-20 Water Body Uses and Standards Specific to the Uses

This section describes the designated uses of the water bodies on the Pueblo that are to be preserved and protected by these water quality standards. Specific criteria for each use are included. In addition to the specific uses listed, the General Standards Sec. 15-2-19 also apply to each use listed in this section. Table IV-1 contains a summary of the designated uses as they are applied to the waters of the Pueblo.

A. Cool-water Aquatic Life/Fishery Use

A cool-water aquatic life/fishery is a river or stream reach, lake, or impoundment where water temperature and other characteristics are suitable for support and propagation of both cold-water and warmwater-adapted aquatic life on a transitional basis including but not limited to, individual species of green plants, algae, fungi, macroinvertebrates, fish (such as longnose dace, Rio Grande chub, Rio Grande sucker, brown trout, cutthroat trout, brook trout, rainbow trout, and walleye), shellfish, snails, frogs, turtles, salamanders, or other aquatic plants and animals but where temperature and other characteristics may not always be suitable for propagation of cold-water fish.

Standards specific to the use are as follows:

1. Dissolved oxygen minimum: 6 mg/l;
2. Temperature maximum: 25°C (77°F);
3. pH range: 6.6-9.0 SU;
4. The total ammonia standards designated in Appendix B; and
5. Tables A1, "Fresh Water Aquatic Criteria" and A2, "Human Health Criteria" of Appendix A apply to this use.

B. Warmwater Aquatic Life/Fishery Use.

Table IV-1 Designated Uses for Each Water Body		Coolwater Aquatic Life/Fishery Use	Warmwater Aquatic Life/Fishery Use	Primary Contact Ceremonial Use	Primary Contact Recreational Use	Agricultural Water Supply Use	Wildlife Habitat Use
Water Body	Designated Use						
Rio Jemez							
Rio Jemez Reach 1 (Confluence to Rio Jemez Dam)		X	X	X	X	X	X
Rio Jemez Reach 2 (Jemez Canyon Dam to USGS Weir)		X	X	X	X	X	X
Rio Jemez Reach 3 (USGS Weir to Tamaya Bridge)		X	X	X	X	X	X
Rio Jemez Reach 4 (Tamaya Bridge to Zia Border)		X	X	X	X	X	X
Rio Grande							
Rio Grande Reach 1 (South Border to Hyatt Tamaya)		X	X	X	X	X	X
Rio Grande Reach 2 (Hyatt Tamaya to confluence)		X	X	X	X	X	X
Rio Grande Reach 3 (Confluence to North Pueblo Border)		X	X	X			X
Ditches							
MRGCD Main Reach			X		X	X	X

Riverside Drain Reach		X	X		X	X	
Ponds							
Ponds		X	X	X	X	X	X
Arroyos/Springs							
Arroyos/Springs		X	X	X	X	X	X

A warmwater aquatic life/fishery is a river or stream reach, lake, or impoundment where water temperature and other characteristics are suitable for support and propagation of warmwater-adapted aquatic life including but not limited to, individuals or species of green plants, algae, fungi, macroinvertebrates, fish (such as cyprinids, minnows, carpsuckers, largemouth black bass, smallmouth black bass, crappie, white bass, bluegill, channel catfish, bullhead catfish or live-bearers), shellfish, snails, frogs, turtles, salamanders, or other aquatic plants and animals.

Standards specific to the use are as follows:

1. Dissolved oxygen minimum: 5 mg/l;
2. Temperature maximum: 32.2°C (90°F);
3. pH range: 6.0-9.0 SU;
4. The total ammonia standards designated in Appendix B; and
5. Tables A1, “Fresh Water Aquatic Criteria” and A2, “Human Health Criteria” of

Appendix A apply to this use.

C. Primary Contact Ceremonial Use

Primary contact ceremonial use means the use of a stream, reach, lake, or impoundment for religious or traditional purposes by members of the Pueblo; such use involves immersion, intentional or incidental ingestion of water, and requires protection of sensitive and valuable aquatic life and riparian habitat.

Standards specific to the use are as follows:

1. Escherichia coli4:
 - a. geometric mean maximum: 50 CFU/100 ml; or
 - b. Statistical Threshold Value (STV) of 160 CFU/100 ml, in accordance with an illness rate of 4 per 1,000 exposures;
2. pH range: 6.6-9.0 SU;
3. The open water shall be free from algae in concentrations causing a nuisance condition or causing gastrointestinal or skin disorders; and
4. Table A2, “Human Health Criteria” of Appendix A apply to this use.

D. Primary Contact Recreational Use

Primary contact recreational use means the recreational use of a stream, reach, lake, or impoundment involving prolonged contact and a substantial risk of ingesting water; examples are swimming, bathing and inner tubing.

Standards specific to the use are:

1. Escherichia coli:
 - a. geometric mean maximum: 100 CFU/100 ml; or

b. STV of 320 CFU/100 ml, in accordance with an illness rate of 8 per 1,000 exposures;

2. pH range: 6.6-9.0 SU;

3. The open water shall be free from algae in concentrations causing a nuisance condition or causing gastrointestinal or skin disorders; and

4. Table A2, "Human Health Criteria" of Appendix A apply to this use.

E. Domestic Water Supply Use

Domestic water supply use means the use of water for human consumption with minimal treatment at the point of diversion from the source.

Standards specific to the use are:

1. pH range: 6.0-9.0 SU; and

2. Table A2, 'Human Health Criteria' of Appendix A apply to this use.

F. Agricultural Water Supply Use

Agricultural water supply use means the use of water for irrigation and livestock watering.

Standards specific to the use are:

1. Concentration of the substances listed in Table IV: G-1 shall not exceed the listed criteria; and

Table IV: G-1: Livestock and Irrigation Criteria:

Substance	Livestalk	Irrigation
Dissolved Boron	5.0 mg/l	0.75 mg/l
Dissolved Cobalt	1.0 mg/l	0.05 mg/l
Dissolved Lithium	---	2.5 mg/l
Dissolved Molybdenum	--	1.0 mg/l
Dissolved Vanadium	0.1 mg/l	0.1mg/l

2. turbidity shall not exceed 5 NTU over background when background turbidity is 50 NTU or less, with no more than a 10% increase when background turbidity is more than 50 NTU.

G. Wildlife Habitat Use

Wildlife habitat use means surface waters of the Pueblo including wetlands that are suitable to support and propagate animal and plant species. Wildlife habitat will be free from any substances at concentrations that are toxic to or will adversely affect animal and plant species that use the environments for feeding, drinking, habitat or propagation, or can bioaccumulate and impair the community of animals in a watershed or the ecological integrity of surface waters of the Pueblo.

Standards specific to use are:

1. Tables A1, 'Fresh Water Aquatic Criteria' and A2, 'Human Health Criteria' of Appendix A apply to this use; and

2. The discharge of substances which bioaccumulate, in excess of levels specified in current research, is not allowed.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-21 Uses and Selected Standards for Designated Water Bodies

A. Rio Jemez Reach 1

The uses and standards are as follows for the segment of the Rio Jemez that passes through the Pueblo, from a easternmost point at the confluence with the Rio Grande at Rio Grande River Mile (RM) 208.43 (designated as RM 0 for the Rio Jemez) with coordinates of Northing 1590186 and Easting 15614045 (latitude 35.3703429 and longitude -106.5150399), to a westernmost point at the Jemez Canyon Dam outlet at Rio Jemez RM 3.0 with coordinates of Northing 1599042 and Easting 1552355 (latitude 35.3946042 and longitude -106.5454822).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact ceremonial use;
- d. Primary contact recreational use;
- e. Domestic water supply use;
- f. Agricultural water supply use; and
- g. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;
- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:
 - i. geometric mean maximum: 50 CFU/100 ml;
 - ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in accordance with an illness rate of 4 per 1,000 exposures; or
 - iii. Beach Action Value (BAV) of 90 CFU/100mL.

B. Rio Jemez Reach 2

The uses and standards are as follows for the segment of the Rio Jemez that passes through the Pueblo, from a easternmost point at the Jemez Canyon Dam outlet at Rio Jemez RM 3.0 with coordinates of Northing 1599042 and Easting 1552355 (latitude 35.3946042 and longitude -106.5454822), to a westernmost point at the Jemez Weir at Rio Jemez RM 6.37 with coordinates of Northing 1603280 and Easting 1539094 (latitude 35.406131 and longitude -106.5900264).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact ceremonial use;

- d. Primary contact recreational use;
- e. Domestic water supply use;
- f. Agricultural water supply use;
- g. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;
- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:

- i. geometric mean maximum: 50 CFU/100 ml;

- ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in

accordance with an illness rate of 4 per 1,000 exposures; or

- iii. Beach Action Value (BAV) of 90 CFU/100mL.

C. Rio Jemez Reach 3

The uses and standards are as follows for the segment of the Rio Jemez that passes through the Pueblo, from a easternmost point at the Jemez Weir at Rio Jemez RM 6.37 with coordinates of Northing 1603280 and Easting 1539094 (latitude 35.406131 and longitude -106.5900264), to a westernmost point at the Tamaya Bridge at Rio Jemez RM 9.06 with coordinates of Northing 1611555 and Easting 1529965 (latitude 35.428776 and longitude -106.6207658).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact ceremonial use;
- d. Primary contact recreational use;
- e. Domestic water supply use;
- f. Agricultural water supply use; and
- g. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;
- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:

- i. geometric mean maximum: 50 CFU/100 ml;

- ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in

accordance with an illness rate of 4 per 1,000 exposures; or

- iii. Beach Action Value (BAV) of 90 CFU/100mL.

D. Rio Jemez Reach 4

The uses and standards are as follows for the segment of the Rio Jemez that passes through the Pueblo, from a easternmost point at the Tamaya Bridge at Rio Jemez RM 9.06 with coordinates of Northing 1611555 and Easting 1529965 (latitude 35.428776 and longitude -106.6207658), to a westernmost point where the Rio Jemez crosses the Zia Border at Rio Jemez RM

13.57 with coordinates of Northing 1628273 and Easting 1514432 (latitude 35.474536 and longitude -106.6731464).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact ceremonial use;
- d. Primary contact recreational use;
- e. Domestic water supply use;
- f. Agricultural water supply use; and
- g. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;
- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:

i. geometric mean maximum: 50 CFU/100 ml;

ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in

accordance with an illness rate of 4 per 1,000 exposures; or

iii. Beach Action Value (BAV) of 90 CFU/100mL.

E. Rio Grande Reach 1

The uses and standards are as follows for the segment of the Rio Grande that passes through the Pueblo, from a southernmost point where the Rio Grande crosses out of the Pueblo's southern boundary at Rio Grande RM 203.96 with coordinates of Northing 1573350 and Easting 1548885 (latitude 35.3239866 and longitude -106.5568581), to a northernmost point at the nick point at RM 205.8 with coordinates of Northing 1580865 and Easting 1553990 (latitude 35.3446763 and longitude -106.5398176).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact ceremonial use;
- d. Primary contact recreational use;
- e. Domestic water supply use;
- f. Agricultural water supply use; and
- g. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;
- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:

i. geometric mean maximum: 50 CFU/100 ml;

ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in

accordance with an illness rate of 4 per 1,000 exposures; or

iii. Beach Action Value (BAV) of 90 CFU/100mL.

F. Rio Grande Reach 2

The uses and standards are as follows for the segment of the Rio Grande that passes through the Pueblo, from a southernmost point at the nick point at RM 205.8 with coordinates of Northing 1580865 and Easting 1553990 (latitude 35.3446763 and longitude -106.5398176), to a northernmost point at the confluence with the Rio Jemez at Rio Grande RM 208.43 with coordinates of Northing 1590186.00188 and Easting 1561403.79235 (latitude 35.3703429 and longitude -106.5150399).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact ceremonial use;
- d. Primary contact recreational use;
- e. Domestic water supply use;
- f. Agricultural water supply use; and
- g. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;
- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:
 - i. geometric mean maximum: 50 CFU/100 ml;
 - ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in accordance with an illness rate of 4 per 1,000 exposures; or
 - iii. Beach Action Value (BAV) of 90 CFU/100mL

G. Rio Grande Reach 3

The uses and standards are as follows for the segment of the Rio Grande that passes through the Pueblo, from a southernmost point at the confluence with the Rio Jemez at Rio Grande RM 208.43 with coordinates of Northing 1590186 and Easting 1561404 (latitude 35.3703429 and longitude -106.5150399), to a northernmost point where the Rio Grande encounters the Pueblo boundary at Rio Grande RM 209.67 with coordinates of Northing 1594059 and Easting 1564991 (latitude 35.3810097 and longitude -106.503041).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact ceremonial use;
- d. Primary contact recreational use;
- e. Domestic water supply use;
- f. Agricultural water supply use; and
- g. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;

- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:

- i. geometric mean maximum: 50 CFU/100 ml;
 - ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in accordance with an illness rate of 4 per 1,000 exposures; or
 - iii. Beach Action Value (BAV) of 90 CFU/100mL

H. Middle Rio Grande Conservancy District Albuquerque Main Canal

The uses and standards are as follows for the segment of the MRGCD Albuquerque Main Canal that passes through the Pueblo, from a southernmost point where the MRGCD Albuquerque Main Canal leaves the Pueblo boundary at coordinates of Northing 1586073 and Easting 1563345 (latitude 35.3341723 and longitude -106.5353073), to a northernmost point where the MRGCD Albuquerque Main Canal enters the Pueblo boundary at coordinates of Northing 1577038 and Easting 1555324 (latitude 35.3590565 and longitude -106.508493).

1. Uses:

- a. Warmwater aquatic life/fishery use;
- b. Primary contact recreational use;
- c. Agricultural water supply use; and
- d. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 5 mg/l;
 - b. Temperature maximum: 32.2°C (90°F);
 - c. pH range: 6.0-9.0 SU; and
 - d. Escherichia coli:
 - i. geometric mean maximum: 100 CFU/100 ml;
 - ii. Statistical Threshold Value (STV) of 320 CFU/100 ml, in accordance with an illness rate of 8 per 1,000 exposures; or
 - iii. Beach Action Value (BAV) of 190 CFU/100mL.

I. Riverside Drain

The uses and standards are as follows for the segment of the Riverside Drain that passes through the Pueblo, from a southernmost point where the Riverside Drain leaves the Pueblo boundary at coordinates of Northing 1586176 and Easting 1561740 (latitude 35.3283982 and longitude -106.5517788), to a northernmost point where the Riverside Drain enters the Pueblo boundary at coordinates of Northing 1574951 and Easting 1550405 (latitude 35.3593279 and longitude -106.513877).

1. Uses:

- a. Cool-water aquatic life/fishery use;
- b. Warmwater aquatic life/fishery use;
- c. Primary contact recreational use;
- d. Agricultural water supply use; and
- e. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 6 mg/l;
- b. Temperature maximum: 25°C (77°F);
- c. pH range: 6.6-9.0 SU; and
- d. Escherichia coli:

- i. geometric mean maximum: 100 CFU/100 ml;

- ii. Statistical Threshold Value (STV) of 320 CFU/100 ml, in accordance with an illness rate of 8 per 1,000 exposures; or

- iii. Beach Action Value (BAV) of 190 CFU/100mL.

J. Ponds

The uses and standards are as follows for all ponds not otherwise designated under these standards.

1. Uses:

- a. Warmwater aquatic life/fishery use;
- b. Primary contact ceremonial use;
- c. Primary contact recreational use;
- d. Agricultural water supply use; and
- e. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 5 mg/l;
- b. Temperature maximum: 32.2°C (90°F);
- c. pH range: 6.0-9.0 SU; and
- d. Escherichia coli:

- i. geometric mean maximum: 50 CFU/100 ml;

- ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in accordance with an illness rate of 4 per 1,000 exposures; or

- iii. Beach Action Value (BAV) of 90 CFU/100mL.

K. Arroyos/Ephemeral Streams/Springs

The uses and standards are as follows for all arroyos, ephemeral streams and springs not otherwise designated in these standards.

1. Uses:

- a. Warmwater aquatic life/fishery use;
- b. Primary contact ceremonial use;
- c. Primary contact recreational use;
- d. Domestic water supply use;
- e. Agricultural water supply use; and
- f. Wildlife habitat use.

2. Standards:

- a. Dissolved oxygen minimum: 5 mg/l;
- b. Temperature maximum: 32.2°C (90°F);
- c. pH range: 6.0-9.0 SU; and

d. *Escherichia coli*:

- i. geometric mean maximum: 50 CFU/100 ml;
- ii. Statistical Threshold Value (STV) of 160 CFU/100 ml, in accordance with an illness rate of 4 per 1,000 exposures; or
- iii. Beach Action Value (BAV) of 90 CFU/100mL.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Sec. 15-2-22 Sampling and Analysis

A. Sample collection, preservation, and analysis

Sample collection, preservation, and analysis used to determine water quality and to maintain the standards set forth in the Water Quality Standards shall be performed in accordance with procedures prescribed by the latest edition of the EPA adopted "*Pueblo of Santa Ana Quality Assurance Project Plan for Surface Water Quality Monitoring Program*" (QAPP). As described in the QAPP, for any activities not specifically covered under the QAPP, any of the following authorities will be used to determine the sample collection, preservation and analysis requirements: (1) American Public Health Association, *Standard Methods for the Examination of Water and Wastewater*; (2) "Methods for Chemical Analysis of Water and Wastes"; or (3) "EPA Guidelines Establishing Test Procedures for the Analysis of Pollutants."

B. Bacteriological Surveys

The monthly geometric mean is used in assessing attainment of standards when a minimum of five samples is collected in a 30-day period. When less than 5 samples are collected in a 30-day period, no single sample shall exceed STV for bacterial density set forth in Sec. 15-2-20. All results for single samples above the BAV will be assessed to determine if designated uses are threatened.

C. Sampling Procedures

1. Streams and Ditches

Stream monitoring stations will be those specified in the EPA-adopted QAPP. Any deletions, additions, or changes to these monitoring stations will be made following the requirements specified in the QAPP and submitted for approval in the next revision of the QAPP. Additional monitoring may be conducted as determined by the Pueblo on an as-needed basis to assess any newly recognized water quality issues.

2. Ponds

Sampling stations in ponds shall be located where the attainment of a water quality standard is to be assessed. Water quality measurements shall be taken at intervals in the water column at a sampling station. For toxic substances and nutrients, the entire water column shall be sampled. For dissolved oxygen measurements will be made at intervals throughout the entire water column. In stratified ponds these measurements shall include the epilimnion as well as other strata.

3. Arroyos, Springs, and Stormwater Runoff

Sampling stations in arroyos, springs and for stormwater runoff shall be located where the attainment of a water quality standard is to be assessed. This additional monitoring may be conducted as determined by the Pueblo on an as-needed basis to assess any newly recognized water quality issues.

Sec. 15-2-23 Definitions

A. “Acute toxicity” means toxicity which exerts short term lethal impacts or representative organisms with a duration of exposure generally less than or equal to 48 hours. Acute toxicity shall be determined in accordance with procedures specified in EPA 821-R-02-012, “Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms.” Other methods may be used as appropriate to determine acute effects other than lethality, such as, but not limited to behavioral changes or immobilization.

B. “Agricultural water supply use” means the use of water for irrigation and livestock.

C. “Algae” means simple plants without roots, stems, or leaves, which contain chlorophyll and are capable of photosynthesis.

D. “Antidegradation” means the policy set forth in the Water Quality Standards whereby existing uses and the level of water quality necessary to maintain those uses is maintained and protected (See 40 C.F.R. Section 131.12 (1987)).

E. “Aquatic biota” means animal and plant life in the water.

F. “Arroyo” means a small, deep, flat-floored channel or gully of an ephemeral or intermittent stream, usually with nearly vertical banks cut, into unconsolidated material. A term commonly used in the arid and semiarid regions of the Southwestern United States. They are usually dry except after heavy rainfall.

G. “Attainable use” means a use of a surface water body which has the level of water quality and other characteristics that are needed to support the use, or which would have the level of water quality and other characteristics needed to support the use upon implementation of effluent limits required under sections 301(b) and 306 of the Clean Water Act and implementation of reasonable BMPs for non-point source control.

H. “Best Available Technology (BAT)” means a term applied with regulations on limiting pollutant discharges. The term constitutes moving targets on practices for abatement with advancing techniques which are currently regarded as “reasonably achievable”, “best practicable” and “best available”.

I. “Best management practices (BMP)” means practices undertaken to control, restrict, and diminish point and non-point sources of pollution, that are consistent with the purposes of the Water Quality Standards and with the narrative and numeric standards contained therein. BMPs are measures, sometimes structural, that are determined to be the most effective practical means of preventing or reducing pollution of water bodies. For NPDES permitting purposes BMPs may include (but are not limited to) schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the pollution of waters. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

J. “Bioaccumulate” means the process by which a compound is taken up by an aquatic organism, both from water and through food.

K. “Bioconcentrate” means the process by which a compound is absorbed from water through gills or epithelial tissues and is concentrated in the body.

L. “Biomagnify” means the process by which the concentration of a compound increases in species occupying successive trophic levels.

M. “CASRN” is an acronym for “Chemical Abstracts Service Registry Number”. Chemical Abstracts Service Registry Numbers are unique identifiers for chemical substances used to bridge the many differences in systematic, generic, proprietary, and trivial names of chemical substances, linking them with their correct molecular structure.

N. “Carcinogenic” means cancer producing.

O. “Chronic toxicity” means toxicity which exerts sub-lethal negative effects such as impairment of growth or reproduction, or which becomes lethal after long- term exposure, generally measured in a seven (7) day test on representative sensitive organisms. Chronic toxicity shall be determined in accordance with procedures specified in EPA-821-R02-013, “*Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Water to Freshwater Organisms.*” Other methods may be used as appropriate.

P. “Clean Water Act” means the Federal Water Pollution Control Act, also known more commonly as the Clean Water Act, came into effect in 1972. The principal body of law in effect is based on the Federal Water Pollution Control Amendments of 1972 and was significantly expanded from the Federal Water Pollution Control Amendments of 1948. Major amendments were enacted in the Clean Water Act of 1977 and the Water Quality Act of 1987. The Clean Water Act also provides for the development of water quality standards by States and Tribes to restore and maintain the chemical, physical and biological integrity of their waters.

Q. “Color” means true color as well as apparent color. True color is the color of the water from which turbidity has been removed. Apparent color includes not only the color due to substances in solution (true color), but also that color due to suspended matter.

R. “Cool-water aquatic life/fishery” means a river or stream reach, lake, or impoundment where water temperature and other characteristics are suitable for support and propagation of both cold-water and warmwater- adapted aquatic life on a transitional basis including, but not limited to, individuals or species of green plants, algae, fungi, macroinvertebrates, fish (e.g., chubs, dace, trout, suckers, and walleye), shellfish, snails, frogs, turtles, salamanders, or other aquatic plants and animals.

S. “Criterion Continuous Concentration (CCC)” means the chronic criterion or limit for exposure to a specific pollutant. This is the limit that controls for continuous exposure scenarios and typically sets a lower limit than the CMC.

T. “Criterion Maximum Concentration (CMC)” means the acute criterion or limit for exposure to a specific pollutant. This is the limit that controls for maximum exposure scenarios over

a short-term exposure and typically sets a higher limit than the CCC. CMCs are typically time limited to indicate the length of exposure allowed at this higher concentration.

U. “Cumulative” means increasing by successive additions.

V. “Designated uses” means those uses set forth in the water quality standards herein.

W. “Dissolved oxygen (DO)” means the amount of oxygen dissolved in water or the amount of oxygen available for biochemical activity in water, commonly expressed as a concentration in milligrams per liter.

X. “Domestic water supply” means a surface water of the Pueblo that may be used as potable supply after disinfection.

Y. “Effluent” means discharge into surface waters from other than natural sources.

Z. “Ephemeral stream” means a stream or reach that flows briefly only in direct response to precipitation or snowmelt in the immediate locality, the channel bed of which is always above the water table in the surrounding area.

AA. “Epilimnion” means the layer of water that overlies the thermocline of a lake and that is subject to the action of wind.

BB. “Escherichia coli”, “Escherichia coli” or “E. coli” means a bacterial species that inhabits the intestinal tract of humans and other warm-blooded animals, the presence of which indicates the potential presence of pathogenic microorganisms capable of producing disease.

CC. “Eutrophication” means the maturation of a body of water, involving increasing concentration of dissolved nutrients and seasonal oxygen deficiency.

DD. “Existing uses” means those uses actually attained in a surface water body on or after November 28, 1975, whether or not they are referred to in the Water Quality Standards.

EE. “Fecal coliform” means Gram negative, non-spore-forming rod-shaped bacteria which are present in the gut or the feces of warm-blooded animals. Fecal coliform bacteria generally includes organisms which are capable of producing gas from lactose broth in a suitable culture medium within 24 hours at 44.5+/-0.2 0C.

FF. “Fishery” means a balanced, diverse community of fishes controlled by the water quality, quantity, and habitat of a water body.

GG. “Geometric Mean” means an antilog of the mean of the logs of a set of numbers. The monthly geometric mean is used in assessing attainment of standards when a minimum of five samples is collected in a 30-day period.

HH. “Indigenous” means produced, growing, or living naturally in a particular region or environment.

II. “Intermittent stream” means a stream or reach of a stream that flows only at certain times of the year, when receiving flow from springs, melting snow, or localized precipitation.

JJ. “MCL - Acronym for “Maximum Contaminant Level” means the maximum permissible level of a contaminant in water delivered to any user of a public water supply system under the Federal Safe Drinking Water Act. MCLs are enforceable standards.

KK. “Milligrams per liter (mg/l)” means the concentration at which one milligram is contained in a volume of one liter; one milligram per liter is equivalent to one part per million (ppm) at unit density.

LL. “Mixing zone” means a three-dimensional zone in which discharged effluent mixes with the receiving water and within which there is a gradation of water quality.

MM. “Narrative standard” means a standard or criterion expressed in words rather than numerically.

NN. “National Pollutant Discharge Elimination Systems (NPDES)” means Section 402 of the Clean Water Act. It is the Clean Water Act’s primary point source control program through which point source discharges of pollution are permitted. Some activities which require NPDES permits are: municipal sewage treatment plants, industrial treatment plants, mines, concentrated animal feeding operations and storm water construction sites.

OO. “Natural background/natural condition” means characteristics that are not man-induced that are related to water quality or the environmental setting; the levels of pollutants present are from natural, as opposed to man-induced, sources.

PP. “Non-point source” means a source of pollution that is not a discernible, confined, and discrete conveyance; a diffuse source which flows across natural or manmade surfaces, such as runoff from agricultural, construction, mining, or silvicultural activities, or from urban areas.

QQ. “NTU” means Nephelometric Turbidity Units; a measure of turbidity in water.

RR. “Nuisance condition” means a condition involving uncontrolled growth of aquatic plants usually caused by excessive nutrients in the water.

SS. “Nutrient” means a chemical element or inorganic compound taken in by green plants and used in organic synthesis.

TT. “Organoleptic” means affecting or involving a sense organ (smell, taste) responsive to sensory stimuli.

UU. “Pathogens” means microorganisms that can cause disease in other organisms or in humans, animals, and plants. They may be bacteria, viruses, or parasites and are found in sewage, in runoff from animal farms or rural areas populated with domestic and/or wild animals, and in water used for swimming. Fish and shellfish contaminated by pathogens, or the contaminated water itself, can cause serious illnesses.

VV. “Perennial stream” means a stream or reach of a stream that flows continuously

throughout the year, the upper surface of which is generally lower than the water table of the region adjoining the stream.

WW. “Persistent” means to continue in existence.

YY. “pH” means the negative logarithm of the effective hydrogen-ion concentration in gram equivalents per liter; a measure of the acidity or alkalinity of a solution, increasing with increasing alkalinity and decreasing with increasing acidity.

XX. “Picocurie (pCi)” means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

ZZ. “Point source” means any discernible, confined, and discrete conveyance from which pollutants are or may be discharged into a water body; does not include return flows from irrigated agriculture.

AAA. “Primary contact ceremonial use” means the use of a stream, reach, lake, or impoundment for religious or traditional purposes by members of the Pueblo; such use involves immersion, and intentional or incidental ingestion of water, and it requires protection of sensitive and valuable aquatic life and riparian habitat.

BBB. “Primary contact recreational use” means recreational use of a stream, reach, lake, or impoundment involving prolonged contact and the risk of ingesting water; examples are swimming and water skiing.

CCC. “Secondary contact recreational use” means recreational use of a stream, reach, lake, or impoundment in which contact with the water may, but need not, occur and in which the probability of ingesting water is minimal; examples are fishing and boating.

DDD. “Segment” means a water quality standards segment, the surface waters of which have common hydrologic characteristics or flow regulation regimes, possess common natural physical, chemical, and biological characteristics, and exhibit common reactions to external stresses, such as the discharge of pollutants.

EEE. “Spring means place where a concentrated discharge of ground water flows at the ground surface.

FFF. “Statistical Threshold Value (STV)” means a calculated criterion for each of the sets of criteria values, the STV is based on the water quality distribution observed during EPA’s epidemiological studies. The STV approximates the 90th percentile of the water quality distribution and is intended to be a value that should not be exceeded by more than 10% of the samples used to calculate the GM. When less than 5 samples are collected in a 30-day period, no single sample shall exceed STV.

GGG. “Surface waters of the Pueblo of Santa Ana” means a surface water of the Pueblo, or reach of a surface water of the Pueblo, for which the Tribal Council has adopted a segment description and has designated a use or uses and applicable water quality criteria. This includes all surface waters situated wholly or partly within or bordering upon the Pueblo, including lakes (both manmade and natural), rivers, streams (including intermittent streams), mudflats, sandflats, wetlands,

sloughs, prairie potholes, wet meadows, playa lakes, reservoirs, or natural ponds. Surface waters of the Pueblo also include all tributaries of such waters, including adjacent wetlands, any manmade bodies of water that were originally created in surface waters of the Pueblo or resulted in the impoundment of surface waters of the Pueblo, and any “waters of the United States” as defined under the Clean Water Act. These “waters of the United States” will be protected by the Pueblo in a manner consistent with the Water Quality Standards and Tribal authority. Also called “Surface Waters of the Pueblo” in the text.

HHH. “Thermal stratification” means horizontal layers of different densities produced in a lake caused by temperature.

III. “Toxicity” means state or degree of being toxic or poisonous; lethal or sub-lethal adverse effects on representative sensitive organisms, due to exposure to toxic materials.

JJJ. “Turbidity” means a measure of the amount of suspended material, particles, or sediment, which has the potential for adverse impacts on aquatic biota.

KKK. “Use-attainability analysis” means a structured scientific assessment of the factors affecting attainment of a use for a body of water, which assessment may include physical, chemical, biological, and economic factors, such as those referred to in 40 C.F.R. Section 131.10(g), and guidance for which may be found in U.S. Environmental Protection Agency, *Technical Support Manual: Water body Surveys and Assessments for Conducting Use-Attainability Analysis (Volume 1--Streams; Volume 2--Estuarine Systems; Volume 3--Lake Systems)*.

LLL. “Warmwater aquatic life/fishery” means a river or stream reach, lake, or impoundment where water temperature and other characteristics are suitable for support and propagation of warmwater-adapted aquatic life including, but not limited to, individuals or species of green plants, algae, fungi, macroinvertebrates, fish (e.g., cyprinids, minnows, carpsuckers, large-mouth bass, spotted bass, small-mouth bass, white bass, crappie, bluegill, channel catfish, bullhead catfish, live-bearers), shellfish, snails, frogs, turtles, salamanders, or other aquatic plants and animals.

MMM. “Water contaminant” means any substance which alters the physical, chemical, or biological qualities of water.

NNN. “Water Resources of the Pueblo” means the term “Water Resources of the Pueblo” includes all surface waters of the Pueblo and any other water for which the Pueblo has either a water right or a responsibility to protect the water. This term includes groundwater, stormwater, and other waters not specifically covered by the Clean Water Act.

OOO. “Wetlands” means those areas inundated or saturated by surface water and/or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, vegetation typically adapted for life in saturated soil conditions. Constructed wetlands used for waste-water treatment purposes are not included in this definition.

PPP. “Wildlife habitat” means a surface water of the Pueblo including wetlands that is suitable to support and propagate animal and plant species. Wildlife habitat surface waters are used for drinking water supply, food supply, habitation, and propagation by plants and animals and is not pathogenic to humans, domesticated livestock, and plants.

QQQ. “Zone of passage” means the portion of the receiving water outside the mixing zone where water quality is the same as that of the receiving water.

Enacted by Resolution Number 13-R-49, adopted November 26, 2013; approved by EPA, August 31, 2015.

Appendix A: Water Quality Criteria for Toxic Substances

As new criteria documents for toxic substances are published by EPA, these will become incorporated into and made a part of Subsection O, TOXIC SUBSTANCES and the associated tables A1: “Fresh Water Aquatic Criteria” and A2: “Human Health Criteria,” during triennial review, and the numeric criteria established by EPA shall equally apply. Numeric criteria for carcinogens will reflect a risk level of one in a million.

For specific **segments** where the criteria in Tables A1 and A2 may need to be recalculated using appropriate species or water quality factors, the Pueblo may, after public participation and EPA approval, adopt site-specific criterion modifications. Since pesticides and PCB’s can accumulate in bottom sediments and tissues of aquatic organisms, sediment and tissue analysis shall routinely be used to complement water analysis. Fish tissue levels in excess of **FDA Action Limits** shall require investigation.

Table A1: Fresh Water Aquatic Criteria

Substance ^b	CASRN	Chronic Toxicity ^c (µg/l)	Acute Toxicity ^c (µg/l)
Acrolein	107-02-8	3.0	3.0
Aldrin	309-00-2	--	3.0
Aluminum ^a	7429-90-5	750	750
Ammonia ^d	7664-41-7 ^e	0.21 ^{f,g}	0.81 ^f
Arsenic ^a	7440-38-2	150	340
Beryllium ^a	7440-41-7	5.3	130
Cadmium ^a	7440-43-9	$e(0.7409[\ln(hd)]-4.719)(CF)$	$e(1.0166[\ln(hd)]-3.924)(CF)$
Carbaryl	63-25-2	2.1	2.1
Chlordane	57-74-9	0.0043	2.4
Chlorine residual	7782-50-5	11	19
Chlorpyrifos	2921-88-2	0.041	0.083
Chromium (III) ^a	16065-83-1	$e(0.8190[\ln(hd)]+0.534)$	$e(0.8190[\ln(hd)]+ 2.5736)$
Chromium (VI) ^a	18540-29-9	10.58	15.71
Copper ^a	7440-50-8	$e(0.8545[\ln(hd)]-1.7428)$	$e(0.9422[\ln(hd)]-1.7408)$
Cyanide	57-12-5	5.2	22
4,4’-DDT	50-29-3	0.001	1.1
Demeton	8065-48-3	0.1	--

Diazinon	333-41-5	0.17	0.17
Dieldrin	60-57-1	0.056	0.24
Endosulfan, alpha	959-98-8	0.056	0.22
Endosulfan, beta	33213-65-9	0.056	0.22

Appendix A: Water Quality Criteria for Toxic Substances

Table A1: Fresh Water Aquatic Criteria (Continued)

Substance ^b	CASRN	Chronic Toxicity ^c (µg/l)	Acute Toxicity ^c (µg/l)
Endrin	72-20-8	0.036	0.086
Guthion	86-50-0	0.01	--
Heptachlor	76-44-8	0.0038	0.52
Heptachlor epoxide	1024-57-3	0.0038	0.52
gamma-BHC (Lindane)	58-89-9	--	0.95
Iron ^a	7439-89-6	1000	--
Lead ^a	7439-92-1	$e(1.273[\ln(\text{hd})]-4.705)$ (CF)	$e(1.273[\ln(\text{hd})]-1.460)$ (CF)
Malathion	121-75-5	0.1	--
Mercury	7439-97-6	0.012	2.4
Methoxychlor	72-43-5	0.03	--
Mirex	2385-85-5	0.001	--
Nickel ^a	7440-02-0	$e(0.8460[\ln(\text{hd})]+0.0554)$	$e(0.8460[\ln(\text{hd})]+2.253)$
Nonylphenol	25154-52-3	6.6	28
Parathion	56-38-2	0.013	0.065
Polychlorinated Biphenyls	xx-xx-x	0.014	--
Pentachlorophenol ^h	87-86-5	$e(1.005(\text{pH})-5.134)^h$	$e(1.005(\text{pH})-4.869)^h$
Selenium	7782-49-2	2	20
Silver ^a	7440-22-4	--	$e(1.72[\ln(\text{hd})]-6.7525)$
Sulfide-Hydrogen Sulfide	7783-06-4	2	--
Toxaphene	8001-35-2	0.0002	0.73
Zinc ^a	7440-66-6	$e(0.8473[\ln(\text{hd})]+0.8699)$	$e(0.8473[\ln(\text{hd})]+0.8618)$

-- = no criterion exists

hd = hardness

In = natural log of number

CF = Conversion Factor (for hardness dependent metals)

For Cadmium: Acute CF is $1.136672-[\ln(\text{hd})(0.041838)]$

Chronic CF is $1.101672-[\ln(\text{hd})(0.041838)]$

For Lead: Acute CF is $1.46203 - [\ln(hd)(0.145712)]$
 Chronic CF is $1.46203 - [\ln(hd)(0.145712)]$

- a = Value based on using a dissolved method.
- b = Total recoverable portion, unless indicated
- c = Chronic and acute toxicity averaging periods and exceedances are as specified by the U.S. Environmental Protection Agency in *Quality Criteria for Water*. 1986 (EPA 440/5-86-001).
- d = Ammonia criteria are based on Aquatic Life Ambient Water Quality Criteria for Ammonia - Freshwater 2013., 2013 (EPA 822-R-13-001). Values listed in this table are for pH 8.6 at 25°C.

Appendix A: Water Quality Criteria for Toxic Substances

Specific values for other pH and temperature conditions are listed in Appendix B (Table B1 for CMC and Table B2 for CCC). These ammonia criteria are not to be exceeded more than once in three years on average.

e = The CAS number given is for ammonia. Ammonia reacts in water to form ammonium hydroxide. This reaction is temperature and pH dependent and both ammonia and ammonium hydroxide are typically present in equilibrium in aqueous solutions of ammonia. Therefore, aqueous ammonia is given a different CAS number, 1336-21-6.

f = Units for ammonia criteria are mg Total Ammonia Nitrogen (TAN)/L.

g = The chronic criterion is expressed as a Criterion Continuous Concentration (CCC). The ammonia concentration is not to exceed 2.5 times the CCC as a 4-day average within 30-days, i.e., 0.53 mg TAN/L at pH 8.6 and 25°C, more than once in three years on average.

h = Pentachlorophenol criteria are based on pH. For the allowable pH range (6.0 to 9.0), the pentachlorophenol criteria for chronic toxicity range from 2.4 to 50 and for acute toxicity range from 3.2 to 65.

mg/l = milligrams/liter

µg/l = micrograms/liter

Appendix A: Water Quality Criteria for Toxic Substances

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Appendix A: Water Quality Criteria for Toxic Substances
Table A2: Human Health Criteria*

Substance ^b	CASRN	Fish Consumption and Other ^c (Not to Exceed) (µg/l)	Water Consumption(µg/l)
Acenaphthene	83-32-9	20 ⁱ	--
Acrolein	107-02-8	9	--
Acrylonitrile	107-13-1	0.25	--
Aldrin	309-00-2	0.00005	--
Antimony ^a	7440-36-0	--	6 _e
Arsenic ^a	7440-38-2	3.6 ^h	10 _e , ^h
Barium ^a	7440-39-3	--	2000 ^e
Benzene	71-43-2	--	5 _e
Benzidine	92-87-5	0.0002	--
Beryllium ^a	7440-41-7	--	4 _e
Butyl Benzyl Phthalate	85-68-7	1900	--
Cadmium ^a	7440-43-9	--	5 _e
Carbon Tetrachloride	56-23-5	1.6	--
Chlordane	57-74-9	0.00081	--
Chlorobenzene	108-90-7	20 ⁱ	--
2-Chloronaphthalene	91-58-7	1600	--
Bis(2-Chloroethyl) Ether	111-44-4	0.53	--
Bis(2-Chloroisopropyl) Ether	108-60-1	65000	--
Bis(Chloromethyl) Ether	542-88-1	0.00029	--
2-Chlorophenol	95-57-8	0.10 ⁱ	--
3-Chlorophenol	108-43-0	0.10 ⁱ	--
4-Chlorophenol	106-48-9	0.10 ⁱ	--
2-Methyl-4-Chlorophenol	1570-64-5	1800 ⁱ	--
3-Methyl-4-Chlorophenol	59-50-7	3000 ⁱ	--
3-Methyl-6-Chlorophenol	615-74-7	20 ⁱ	--
Chromium (III) ^a	16065-83-1	---	100 _e
Chromium (VI) ^a	18540-29-9	--	100 _e
Copper ^a	7440-50-8	1000 ⁱ	--
Cyanide	57-12-5	140	--
4,4'-DDT	50-29-3	0.00022	--

Table A2: Human Health Criteria* (Continued)

Substance ^b	CASRN	Fish Consumption and Other ^c (Not to Exceed) (µg/l)	Water Consumption(µg/l)
4,4'-DDE	72-55-9	0.00022	--
4,4'-DDD	72-54-8	0.00031	--
Di-n-Butyl Phthalate	84-74-2	4500	--
1,2-Dichlorobenzene	95-50-1	--	600 ^e
1,3-Dichlorobenzene	541-73-1	960	--
1,4-Dichlorobenzene	106-46-7	--	75 ^e
3,3'-Dichlorobenzidine	91-94-1	0.028	--
1,2'-Dichloroethane	107-06-2	--	5 ^e
1,1-Dichloroethylene	75-35-4	--	7 ^e
1,2-Trans-Dichloroethylene	156-60-5	--	100 ^e
2,3-Dichlorophenol	576-24-9	0.04 ⁱ	--
2,4-Dichlorophenol	120-83-2	0.3 ⁱ	--
2,5-Dichlorophenol	583-78-8	0.5 ⁱ	--
2,6-Dichlorophenol	87-65-0	0.2 ⁱ	--
3,4-Dichlorophenol	95-77-2	0.3 ⁱ	--
2,4-Dichlorophenoxy-acetic acid (2,4-D)	94-75-7	--	70 ^e
1,2-Dichloropropane	78-87-5	--	5 ^e
1,3-Dichloropropene	542-75-6	21	--
Dieldrin	60-57-1	0.000054	--
Diethyl phthalate	84-66-2	44000	--
2,4 Dimethyl phenol	105-67-9	400 ⁱ	--
Dimethyl phthalate	131-11-3	1100000	--
2,4-Dinitrotoluene	121-14-2	3.4	--
2,4-Dinitrophenol	51-28-5	5300	--
2-Methyl-4,6-Dinitrophenol	534-52-1	280	--
Dioxin (2,3,7,8-TCDD)	1746-01-6	0.0000000051	--
1,2-Diphenylhydrazine	122-66-7	0.20	--
Bis 2-Ethylhexylphthalate	117-81-7	2.2	--
Endosulfan, alpha	959-98-8	89	--
Endosulfan, beta	33213-65-9	89	--

Appendix A: Water Quality Criteria for Toxic
Substances Table A2: Human Health Criteria*
(Continued)

Substance ^b	CASRN	Fish Consumption and Other ^c (Not to Exceed) (µg/l)	Water Consumption(µg/l)
Endosulfan Sulfate	1031-07-8	89	--
Endrin	72-20-8	0.06	--
Endrin Aldehyde	7421-93-4	0.30	--
Ethylbenzene	100-41-4	--	700 ^e
Fluoranthene	206-44-0	140	--
Fluoride	16984-48-8	--	4000 ^e
Heptachlor	76-44-8	0.000079	--
Heptachlor epoxide	1024-57-3	0.000039	--
Hexachloroethane	67-72-1	3.3	--
Hexachlorobenzene	118-74-1	0.00029	--
Hexachlorobutadiene	87-68-3	18	--
alpha-BHC	319-84-6	0.0049	--
beta-BHC	319-85-7	0.017	--
gamma-BHC (Lindane)	58-89-9	1.8	--
Hexachlorocyclopentadiene	77-47-4	1 ⁱ	--
Isophorone	78-59-1	960	--
Lead ^a	7439-92-1	d	--
Manganese ^a	7439-96-5	100	--
Methylmercury	22967-92-6	0.3 mg/kg in fish tissue ^f	--
Methyl Bromide	74-83-9	1500	--
Methylene Chloride	75-09-2	590	--
Methoxychlor	72-43-5	--	40 ^e
Napthalene	91-20-3	d	--
Nickel ^a	7440-02-0	4600	--
Nitrate	14797-55-8	--	10000 ^e
Nitrobenzene	98-95-3	30 ⁱ	--
Nitrosamines		1.24	--
Nitrosodibutylamine N	924 -16-3	0.22	--
Nitrosodiethylamine N	55-18-5	1.24	--

N-Nitrosodimethylamine	62-75-9	3.0	--
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Appendix A: Water Quality Criteria for Toxic
Substances Table A2: Human Health Criteria*

(Continued)

Substance ^b	CASRN	Fish Consumption and Other ^c (Not to Exceed) (µg/l)	Water Consumption(µg/l)
N-Nitrosodi-n- Propylamine	621-64 -7	0.51	--
N-Nitrosodiphenylamine	86-30-6	6.0	--
N-Nitrosopyrrolidine	930-55-2	34	--
Polychlorinated Biphenyls	1336-36-3	0.000064	--
Pentachlorobenzene	608-93-5	1.5	--
Pentachlorophenol	87-86-5	30 ⁱ	1 ^e
Phenol	108-95-2	300 ⁱ	--
Polynuclear Aromatic Hydrocarbons (PAH's)		--	--
Anthracene	120-12-7	40000	--
Benzo(a)Anthracene	56-55-3	0.018	--
Benzo(a)Pyrene	50-32-8	0.018	--
Benzo(b)Fluoranthene	205-99-2	0.018	--
Benzo(ghi)Perylene	191-24-2	d	--
Benzo(k)Fluoranthene	207-08-9	0.018	--
4-Bromophenyl Phenyl Ether	101-55-3	d	--
Chysene	218-01-9	0.018	--
Dibenzo(a,h)Anthracene	53-70-3	0.018	--
Fluorene	86-73-7	5300	--
Indeno 1,2,3-cd Pyrene	193-39-5	0.018	--
Phenanthrene	85-01-8	d	--
Pyrene	129-00-0	4000	--
Selenium	7782-49-2	4200	--
Tetrachlorobenzene 1,2,4,5	95-94-3	1.1	--
1,1,2,2-Tetrachloroethane	79-34-5	4.0	--
Tetrachloroethylene	127-18-4	3.3	--
2,3,4,6-Tetrachlorophenol	58-90-2	1.0 ⁱ	--
Thallium ^a	7440-28-0	0.47	--
Toluene	108-88-3	--	1000 ^e
Toxaphene	8001-35-2	0.00028	--
1,2,4 Trichlorobenzene	120-82-1	70	--
1,1,1-Trichloroethane	71-55-6	--	200 ^e

1,1,2-Trichloroethane	79-00-5	--	5 ^e
Trichloroethylene	79-01-6	--	5 ^e

Appendix A: Water Quality Criteria for Toxic
Substances Table A2: Human Health
Criteria* (Continued)

Substance ^b	CASRN	Fish Consumption and Other ^c (Not to Exceed) (µg/l)	Water Consumption(µg/l)
2,4,5-Trichlorophenol	95-95-4	1.0 ⁱ	--
2,4,6-Trichlorophenol	88-06-2	2.0 ⁱ	--
2-(2,4,5-Trichlorophenoxy) Propionic acid (Silvex)	93-72-1	--	50 ^e
TTHM (Sum of total Trihalomethanes)			80 ^{e, f}
Dichlorobromomethane	75-27-4	17	--
Bromoform	75-25-2	140	--
Chloroform	67-66-3	470	--
Chlorodibromomethane	124-48-1	13	--
Vinyl Chloride	75-01-4	--	2 ^e
Zinc ^a	7440-66-6	5000 ⁱ	--

* The values stated as Human Health Criteria for these substances are based on the assumption that fish from the surface waters covered by the Water Quality Standards are consumed, but water from these surface waters is not regularly ingested. A risk 10⁻⁶ is assumed for carcinogens. Where no criterion exists based on fish consumption, MCLs and background conditions are used as the basis of the water quality standard of protection.

-- = no criterion exists

a = Value based on using a dissolved method.

b = Total recoverable portion, unless indicated

c = unless otherwise noted, the value based on current national recommended water quality criteria with respect to human health for the consumption of fish and other aquatic organisms. These values can be found on

<http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>.

d = EPA has not calculated human health criterion for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the Pueblo of Santa Ana's narrative criteria for toxics.

e = Based on Safe Drinking Water Act Maximum Contaminant Levels (MCLs).

f = Concentrations of mercury from all sources shall not result in methylmercury concentrations in fish tissue that exceed 0.3 mg/kg. This criterion is based on a fish consumption rate of 17.5 g/day.

g = This value cannot be exceeded by itself, or as part of Total Trihalomethanes that include: Bromodichloromethane (CASN 75-27-4)

Dibromochloromethane(CASN 124-48-1)
 Tribromomethane [Bromoform (CASN 75-25-2)]
 Trichloromethane [Chloroform (CASN 67-66-3)]

h = Based on background conditions of the Rio Grande the Fish Consumption and Other limit for Arsenic is 3.6 µg/L. Levels in the Rio Jemez commonly exceed this value and background is estimated to be 160 µg/L. The criterion for water consumption of 10 µg/L will be applied to discharges into the waters of the Rio Jemez watershed.

i = Value based on organoleptic effects criteria (e.g., taste and odor) in the current national

recommended water quality criteria (see

<http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm>).

mg/l = milligrams/liter

µg/l = micrograms/liter

Appendix B: Ammonia Criteria Temperature and pH-Dependent Values for Chronic and Acute Criteria

Criteria for Ammonia

The Pueblo adopts the EPA recommended ammonia acute criterion magnitude (or Criterion Maximum Concentration [CMC]) of 0.81 mg Total Ammonia Nitrogen/Liter (TAN/L) and the chronic criterion magnitude (or Criterion Continuous Concentration [CCC]) of 0.21 mg TAN/L at pH 8.6 and 25°C, with the stipulation that the chronic criterion cannot exceed 2.0 mg TAN/L as a 4-day average. All criteria magnitudes are recommended not to be exceeded more than once in three years on average. The ammonia criteria are pH and temperature dependent and the values selected for the base criteria at pH = 8.6 and T = 25°C represent the most stringent criteria that can be expected on an annual basis based on available water quality data. Any values exceeding the values listed below must be compared to the criteria in Tables B1 and B2 to determine if the applicable criterion at the ambient pH and temperature was exceeded. If the pH > 8.6 or the temperature > 25°C, then all ammonia values need to be checked against the criteria in Tables B1 and B2 The selected values are highlighted in bold in Tables B1 and B2 to determine if the applicable criterion at the ambient pH and temperature was exceeded..

Pueblo of Santa Ana Final Aquatic Life Criteria for Ammonia (Magnitude, Frequency, and Duration) (mg TAN/L) pH 8.6, T=25°C	
Acute (CMC) (1-hour average)	0.81
Chronic (CCC) (30-day rolling average)	0.21*
*Not to exceed 2.5 times the CCC as a 4-day average within the 30-days, i.e. 0.53 mg TAN/L at pH 8.6 and 25°C, more than once in three years on average.	

Criteria frequency: Not to be exceeded more than once in three years on average.
--

The available data for ammonia indicates that, except possibly where an unusually sensitive species is important at a site, freshwater aquatic life will be protected if these criteria are met. Table B1 provides the temperature and pH-dependent values of the CMC (acute criterion magnitude) and Table B2 provides the temperature and pH-dependent values of the CCC (chronic criterion magnitude) based on the EPA recommended criterion calculations derived in *Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater 2013*, 2013 (EPA 822-R-13-001).

Appendix B: Ammonia Criteria Temperature and pH-Dependent Values for Chronic and Acute Criteria

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Appendix B: Ammonia Criteria Temperature and pH-Dependent Values for Chronic and Acute Criteria

Table B1. Temperature and pH-Dependent Values of the CMC (Acute Criterion Magnitude)

pH	Temperature (°C)																													
	0-7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30						
6.5	4.9	4.6	4.3	4.1	3.8	3.6	3.3	3.1	2.9	2.8	2.6	2.4	2.3	2.1	2.0	1.9	1.8	1.6	1.5	1.5	1.4	1.3	1.2	1.1						
6.6	4.8	4.5	4.3	4.0	3.8	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1						
6.7	4.8	4.5	4.2	3.9	3.7	3.5	3.2	3.0	2.8	2.7	2.5	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1						
6.8	4.6	4.4	4.1	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.3	2.1	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1						
6.9	4.5	4.2	4.0	3.7	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0						
7.0	4.4	4.1	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.3	2.2	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1	0.99						
7.1	4.2	3.9	3.7	3.5	3.2	3.0	2.8	2.7	2.5	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95						
7.2	4.0	3.7	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.0	0.96	0.90						
7.3	3.8	3.5	3.3	3.1	2.9	2.7	2.6	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.0	0.97	0.91	0.85						
7.4	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.0	0.96	0.90	0.85	0.79						
7.5	3.2	3.0	2.8	2.7	2.5	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95	0.89	0.83	0.78	0.73						
7.6	2.9	2.8	2.6	2.4	2.3	2.1	2.0	1.9	1.8	1.6	1.5	1.4	1.4	1.3	1.2	1.1	1.1	0.98	0.92	0.86	0.81	0.76	0.71	0.67						
7.7	2.6	2.4	2.3	2.2	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1	1.0	0.94	0.88	0.83	0.78	0.73	0.68	0.64	0.60						
7.8	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95	0.89	0.84	0.79	0.74	0.69	0.65	0.61	0.57	0.53						
7.9	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95	0.89	0.84	0.79	0.74	0.69	0.65	0.61	0.57	0.53	0.50	0.47						
8.0	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1	1.0	0.94	0.88	0.83	0.78	0.73	0.68	0.64	0.60	0.56	0.53	0.50	0.44	0.44	0.41						
8.1	1.5	1.5	1.4	1.3	1.2	1.1	1.1	0.99	0.92	0.87	0.81	0.76	0.71	0.67	0.63	0.59	0.55	0.52	0.49	0.46	0.43	0.40	0.38	0.35						
8.2	1.3	1.2	1.2	1.1	1.0	0.96	0.90	0.84	0.79	0.74	0.70	0.65	0.61	0.57	0.54	0.50	0.47	0.44	0.42	0.39	0.37	0.34	0.32	0.30						
8.3	1.1	1.1	0.99	0.93	0.87	0.82	0.76	0.72	0.67	0.63	0.59	0.55	0.52	0.49	0.46	0.43	0.40	0.38	0.35	0.33	0.31	0.29	0.27	0.26						
8.4	0.95	0.89	0.84	0.79	0.74	0.69	0.65	0.61	0.57	0.53	0.50	0.47	0.44	0.41	0.39	0.36	0.34	0.32	0.30	0.28	0.26	0.25	0.23	0.22						
8.5	0.80	0.75	0.71	0.67	0.62	0.58	0.55	0.51	0.48	0.45	0.42	0.40	0.37	0.35	0.33	0.31	0.29	0.27	0.25	0.24	0.22	0.21	0.20	0.18						
8.6	0.68	0.64	0.60	0.56	0.53	0.49	0.46	0.43	0.41	0.38	0.36	0.33	0.31	0.29	0.28	0.26	0.24	0.23	0.21	0.20	0.19	0.18	0.16	0.15						
8.7	0.57	0.54	0.51	0.47	0.44	0.42	0.39	0.37	0.34	0.32	0.30	0.28	0.27	0.25	0.23	0.22	0.21	0.19	0.18	0.17	0.16	0.15	0.14	0.13						
8.8	0.49	0.46	0.43	0.40	0.38	0.35	0.33	0.31	0.29	0.27	0.26	0.24	0.23	0.21	0.20	0.19	0.17	0.16	0.15	0.14	0.13	0.13	0.12	0.11						
8.9	0.42	0.39	0.37	0.34	0.32	0.30	0.28	0.27	0.25	0.23	0.22	0.21	0.19	0.18	0.17	0.16	0.15	0.14	0.13	0.12	0.12	0.11	0.10	0.09						
9.0	0.36	0.34	0.32	0.30	0.28	0.26	0.24	0.23	0.21	0.20	0.19	0.18	0.17	0.16	0.15	0.14	0.13	0.12	0.11	0.11	0.10	0.09	0.09	0.08						

Appendix B: Ammonia Criteria Temperature and

pH-Dependent Values for Chronic and Acute Criteria

Table B2. Temperature and pH-Dependent Values of the CCC (Chronic Criterion Magnitude)

pH	Temperature (°C)																													
	0-7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30						
6.5	4.9	4.6	4.3	4.1	3.8	3.6	3.3	3.1	2.9	2.8	2.6	2.4	2.3	2.1	2.0	1.9	1.8	1.6	1.5	1.5	1.4	1.3	1.2	1.1						
6.6	4.8	4.5	4.3	4.0	3.8	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1						
6.7	4.8	4.5	4.2	3.9	3.7	3.5	3.2	3.0	2.8	2.7	2.5	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1						
6.8	4.6	4.4	4.1	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.3	2.1	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1						
6.9	4.5	4.2	4.0	3.7	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0						
7.0	4.4	4.1	3.8	3.6	3.4	3.2	3.0	2.8	2.6	2.4	2.3	2.2	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1	0.99						
7.1	4.2	3.9	3.7	3.5	3.2	3.0	2.8	2.7	2.5	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95						
7.2	4.0	3.7	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.0	0.96	0.90						
7.3	3.8	3.5	3.3	3.1	2.9	2.7	2.6	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.0	0.97	0.91	0.85						
7.4	3.5	3.3	3.1	2.9	2.7	2.5	2.4	2.2	2.1	2.0	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.0	0.96	0.90	0.85	0.79						
7.5	3.2	3.0	2.8	2.7	2.5	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95	0.89	0.83	0.78	0.73						
7.6	2.9	2.8	2.6	2.4	2.3	2.1	2.0	1.9	1.8	1.6	1.5	1.4	1.4	1.3	1.2	1.1	1.1	0.98	0.92	0.86	0.81	0.76	0.71	0.67						
7.7	2.6	2.4	2.3	2.2	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1	1.0	0.94	0.88	0.83	0.78	0.73	0.68	0.64	0.60						
7.8	2.3	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95	0.89	0.84	0.79	0.74	0.69	0.65	0.61	0.57	0.53						
7.9	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	0.95	0.89	0.84	0.79	0.74	0.69	0.65	0.61	0.57	0.53	0.50	0.47						
8.0	1.8	1.7	1.6	1.5	1.4	1.3	1.2	1.1	1.1	1.0	0.94	0.88	0.83	0.78	0.73	0.68	0.64	0.60	0.56	0.53	0.50	0.44	0.44	0.41						
8.1	1.5	1.5	1.4	1.3	1.2	1.1	1.1	0.99	0.92	0.87	0.81	0.76	0.71	0.67	0.63	0.59	0.55	0.52	0.49	0.46	0.43	0.40	0.38	0.35						
8.2	1.3	1.2	1.2	1.1	1.0	0.96	0.90	0.84	0.79	0.74	0.70	0.65	0.61	0.57	0.54	0.50	0.47	0.44	0.42	0.39	0.37	0.34	0.32	0.30						
8.3	1.1	1.1	0.99	0.93	0.87	0.82	0.76	0.72	0.67	0.63	0.59	0.55	0.52	0.49	0.46	0.43	0.40	0.38	0.35	0.33	0.31	0.29	0.27	0.26						
8.4	0.95	0.89	0.84	0.79	0.74	0.69	0.65	0.61	0.57	0.53	0.50	0.47	0.44	0.41	0.39	0.36	0.34	0.32	0.30	0.28	0.26	0.25	0.23	0.22						
8.5	0.80	0.75	0.71	0.67	0.62	0.58	0.55	0.51	0.48	0.45	0.42	0.40	0.37	0.35	0.33	0.31	0.29	0.27	0.25	0.24	0.22	0.21	0.20	0.18						
8.6	0.68	0.64	0.60	0.56	0.53	0.49	0.46	0.43	0.41	0.38	0.36	0.33	0.31	0.29	0.28	0.26	0.24	0.23	<u>0.21</u>	0.20	0.19	0.18	0.16	0.15						
8.7	0.57	0.54	0.51	0.47	0.44	0.42	0.39	0.37	0.34	0.32	0.30	0.28	0.27	0.25	0.23	0.22	0.21	0.19	0.18	0.17	0.16	0.15	0.14	0.13						
8.8	0.49	0.46	0.43	0.40	0.38	0.35	0.33	0.31	0.29	0.27	0.26	0.24	0.23	0.21	0.20	0.19	0.17	0.16	0.15	0.14	0.13	0.13	0.12	0.11						
8.9	0.42	0.39	0.37	0.34	0.32	0.30	0.28	0.27	0.25	0.23	0.22	0.21	0.19	0.18	0.17	0.16	0.15	0.14	0.13	0.12	0.12	0.11	0.10	0.09						
9.0	0.36	0.34	0.32	0.30	0.28	0.26	0.24	0.23	0.21	0.20	0.19	0.18	0.17	0.16	0.15	0.14	0.13	0.12	0.11	0.11	0.10	0.09	0.09	0.0						

ARTICLE 3 - AIR QUALITY STANDARDS

- Reserved -

ARTICLE 4 - TRIBAL UTILITIES CODE

Sec. 15-4-1 Title

This Article shall be known as the Santa Ana Tribal Utilities Code.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-2 Purpose

The purpose of the Santa Ana Tribal Utilities Code (“Code”) is to establish the Santa Ana Tribal Utility Authority and the Santa Ana Tribal Utility Commission, and to define the policies for the operation, maintenance, repair, and extension of the Pueblo water and sewer systems.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-3 Policy

It is the policy of the Pueblo that the Pueblo water and sewer systems shall be operated, maintained, repaired, and extended in a manner that assures that all Pueblo residents, businesses, and other entities on Santa Ana land receive access to potable water and to a safe means for disposing of wastewater in a sanitary and environmentally responsible manner, and that minimizes exposure to adverse conditions that could negatively impact the health of any individual or the community. It is also the policy of the Pueblo that the operation, maintenance, repair, and extension of the Pueblo water and sewer systems shall be carried out in a financially responsible, cost-effective, and appropriately-engineered manner.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-4 Definitions

Unless the context specifically indicates otherwise, the following terms as used in this Code shall have the following meanings:

A. “Authority” or “Utility Authority” means the Santa Ana Tribal Utility Authority established by this Code.

B. “Authority Revenue” means money received by the Authority from billing for the services provided by the Authority, including applicable fees and charges.

C. “Collection Lines” are those sewer lines by which sewer collection and disposal services are provided to customers. These lines include the mains between manholes and the sections of the sewer lines between customer shut-off/clean-out valves and the mains.

D. “Commission” means the Santa Ana Tribal Utility Commission, the body established by this Code.

E. “Cross connection” means any physical connection between the Pueblo water system and another piping system, either water or wastewater, where the Pueblo’s water system might come into contact with a source that could contaminate the water.

F. “Customer” means a person or entity that receives water and/or sewer services from the Authority.

G. “Customer lines” means the water and sewer lines between the shut-off/clean-out valve and/or meter and a residence or other building or property, and the water and sewer lines located inside a residence or other building.

H. “Director” means the Director of Tribal Utilities as established by this Code, who is responsible for the daily operations and affairs of the Authority.

I. “Distribution system lines” means the potable water pipelines from the main to the shut-off/clean-out valve and/or meter.

J. “On-site sewage disposal systems” means individual or community septic tanks and subsurface drain fields and associated equipment that collect, treat, and dispose of sewage generated by their users.

K. “Pueblo water and sewer systems” means the water and sewer utilities located on Pueblo lands that provide potable water to, and collect, transport, treat, and dispose of wastewater from, residences, tribal governmental buildings, and businesses located on Pueblo lands. The Pueblo water and sewer systems include water sources, storage tanks, controls, mainlines, valves, hydrants, meters, distribution system lines, collection lines, treatment facilities, pumping stations, mainlines, manholes, community on-site sewage disposal systems, and storm water systems. The systems may be referred to separately as the “Pueblo water system” and the “Pueblo sewer system.”

L. “Storm water system” means a system of drains and channels for carrying off rainfall drained from paved surfaces, roofs, and the like.

M. “Tribal Court” means the Pueblo Contemporary Court.

N. “Wastewater” means liquid waste, along with dissolved or suspended solids, that results from washing, flushing toilets, and general cleaning at residences, tribal governmental buildings, and businesses.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-5 Utility Authority; Water and Sewer Services; Standards

A. The Santa Ana Tribal Utility Authority is hereby established, possessing all of the powers, duties, rights, and functions herein defined and as are now and may be hereinafter conferred by the laws of the Pueblo, to operate, regulate, supervise, extend, and administer the Pueblo water and sewer systems.

B. The Authority is a department of the Pueblo, and is subject to the Pueblo’s Procurement Code and other applicable Pueblo law, except to the extent it is expressly exempted therefrom.

C. The Authority is responsible for providing safe and adequate water, and the sanitary disposal of wastewater, for a reasonable fee to those homes, businesses, and institutions connected to the Pueblo water and sewer systems. The Authority shall comply with the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., the Clean Water Act, 33 U.S.C. § 1251 et seq., the Pueblo's Water Quality Standards, and any other applicable federal or Pueblo law.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-6 Powers of the Commission

The Commission shall have the power and authority to:

- A. Review and approve an annual budget for the operation of the Authority prepared by the Director for submission to the Tribal Council;
- B. Review and approve the Authority's annual financial statements for submission to the Tribal Council;
- C. Prepare and approve annual budget for the Commission for submission to the Tribal Council;
- D. Determine and set, based on the Director's recommendations, reasonable rates, fees, and other charges for water and sewer services, and a penalty schedule for violations of this Code;
- E. Adopt appropriate regulations to implement the requirements of this Code, based on the Director's recommendations;
- F. Recommend to the Tribal Council proposed amendments to this Code, based on the Director's recommendations;
- G. Make recommendations to the Governor regarding the execution of contracts on behalf of the Utility Authority, based on the Director's recommendations;
- H. Gather community input on expansion of the Pueblo's water and sewer systems and related infrastructure and make recommendations to the Director based on that input.
- I. Review and approve the Director's recommendations for the expansion of the Pueblo's water and sewer systems and related infrastructure, provided that, with good cause, the Tribal Council may override the Commission's decision on such matters and direct the Authority to take or not to take certain actions;
- J. Handle customer complaints against the Authority as provided for in this Code; and
- K. Perform additional tasks at the direction of the Tribal Council.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-7 Membership; Quorum; Officers

A. The Commission shall be composed of five persons appointed by the Tribal Council who are capable and willing to perform the duties of the Commission. At least one Commissioner should be a person with professional credentials and experience in water and sewer systems, such as the Indian Health Service-Division of Sanitation Facilities Construction-District Engineer or designee. The Council shall appoint Commissioners by a majority vote. Current Commissioners may nominate successors for the Council's consideration.

B. A quorum of the Commission shall consist of three (3) members, provided that in the event the number of unfilled Commissioner vacancies prevents the gathering of a quorum for purposes of conducting business, the remaining Commissioners shall constitute a quorum.

C. The Commission shall annually elect a Chair, Vice-Chair, and Secretary-Treasurer

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-8 Terms of Office

Commissioners shall be appointed for three-year terms and shall be eligible for reappointment one time. The terms of the Commissioners shall, to the extent feasible, be staggered so as to maintain continuity in the Commission. Each Commissioner shall serve until his or her term expires, unless he or she is removed, resigns, or dies before the expiration of his or her term. Commissioners may be removed by the Council at will or by the Governor upon reasonable grounds to believe that the Commissioner committed misconduct, acted in excess of his or her authority, or has failed to fulfill his or her duties as a Commissioner.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-9 Compensation

Commissioners shall be entitled to compensation, as determined by the Tribal Council in approving the Commission's budget. Payments for mileage for Authority-related travel, per diem for attending to Authority business, or other authorized costs, shall be consistent with Pueblo policy.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-10 Reporting to the Tribal Council

The Director and the Commission shall make annual presentations to the Tribal Council on the Authority's budget and projects, Authority Revenue and grant funding received, and expenditures from Authority Revenue, and the Director shall submit to the Tribal Council annual financial statements for the Authority.

Enacted by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-11 Duties of the Director

The Director shall have the responsibility for managing the day-to-day business and operating affairs of the Authority, including the operation, maintenance, repair, and extension of the Pueblo water and sewer systems, directly or by contract.

Enacted by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-12 Employees

A. The Authority shall employ necessary personnel to carry out the operation, maintenance, repair, and extension of the Pueblo water and sewer systems and to handle the Authority's necessary bookkeeping and clerical work. Such personnel shall be under the supervision of the Director.

B. All employees of the Authority, including the Director, shall be Pueblo employees, hired pursuant to Pueblo policies and procedures and subject to such policies and procedures.

C. The Director shall report directly to the Governor.

D. The Director shall prepare job descriptions for all positions deemed necessary for the Authority's operations, and pay scales shall be in conformity with Pueblo policies and procedures. All employees shall have the same rights, benefits and responsibilities as other Pueblo employees as outlined in the Pueblo's Personnel Policies and Procedures Manual.

Enacted by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-13 Annual Budget

The Director shall prepare, for review and approval by the Commission and the Tribal Council's, an annual budget for the Authority setting forth the reasonable costs of operating, maintaining, repairing, and extending the Pueblo water and sewer systems, administration, personnel, liability and other insurance, a reserve for major repairs and replacements, and other costs reasonably related to the functions of the Authority.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-14 Deposits and Disbursements

A. The Pueblo's Finance Department shall maintain an Authority account into which tribally-budgeted funds, grant funds, Authority Revenue, and all other funds received by the Authority will be promptly deposited and credited, and from which expenses will be debited. The Finance Department and the Authority shall each keep separate ledgers for each of the foregoing sources of funds, and suitable records of deposits to and disbursements from each.

B. The Authority shall invoice customers for services received and any applicable fees or charges, collect payments from customers, and forward all payments received to the Finance Department for processing in accordance with this Code and Pueblo policies.

C. All disbursements from the Authority's account shall be in accordance with the Pueblo's procurement policies. Disbursements of Authority Revenue shall also require the concurrence of the Commission.

D. The Pueblo's Finance Department shall provide monthly account statements to the Authority, which the Authority shall reconcile against its records.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-15 Exclusive Use of Authority Revenue

Authority Revenue is for the exclusive use of the Authority for the necessary operation, maintenance, repair, and extension of the Pueblo water and sewer systems and related equipment. Authority receipts shall not be transferred or loaned to the Tribal General Fund or any other accounts of the Tribe or other Tribal departments.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-16 Bonding

The Director and any other person(s) designated to handle funds for the Authority shall be bonded for amounts up to \$200,000.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-17 Water or Sewer Service

Every residence and business within the service area of the Authority shall be required to be connected to the Pueblo water and sewer systems, provided that such services are available, or can be reasonably made available, in the area where the residence or business is located, and further provided that all of the following conditions are met:

A. The applicant agrees to comply with all provisions of this Code and any regulations duly approved by the Commission, and to promptly pay all fees, penalties, costs, damages, or other charges assessed by the Authority, and is currently in compliance with and has corrected any prior violations of this Code;

B. Customer lines are installed, operated, and maintained to prevent cross connections or backflow; and

C. The applicant is not delinquent on any account with the Authority or the Pueblo.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-18 Waste of Water; Cross-Connection and Backflow Prevention; Waste Disposal

A. The Authority may terminate a customer's service when the customer has repeatedly wasted water. Such waste is evidenced by the fact that hydrants, taps, hoses, or other fixtures are permitted to run continuously when not in productive use. Where such conditions have been

observed, the Authority shall give the customer written notice that water services to the premise will be terminated if the condition is not corrected within forty-eight (48) hours after receipt of the notice. Service shall be resumed only after the customer corrects the condition causing wastage of water, and pays charges for the water used, a reconnection fee, and any assessed penalties.

B. A customer may not make a cross-connection with the Pueblo water system. Any non-Pueblo-water-system source must be totally disconnected from the household plumbing prior to connecting the household plumbing to the Pueblo water system. Disconnection done solely by a valve shall not be allowed. Until such time as the Pueblo adopts a code or the Commission adopts regulations to govern cross-connection and backflow prevention, the standards for cross-connection and backflow prevention shall be the current edition of the Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials.

C. Customers who operate food establishments must comply with Commission regulations regarding the disposal of fats, oils, and grease, including any requirements related to grease interceptors. Customers shall not dispose of any toxic, radioactive or otherwise hazardous waste into the Pueblo sewer system or storm system. Toxic and hazardous waste include but are not limited to: petroleum-based oils, pesticides, gasoline, anti-freeze, solvents, paint, and poisons.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-19 Conservation of Resources; Water Shortages

The Authority shall operate, maintain, repair, and extend the Pueblo water and sewer systems in a manner that will maximize the conservation of resources. Customers shall be encouraged to conserve water. The Authority may offer assistance and service to customers for water conservation as it determines are feasible. During water shortages declared by the Authority, each customer shall limit his or her use of water according to allocations established by the Authority.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-20 Right of Entry - Inspections

The Director or his or her designee is authorized to make limited, reasonable inspections, at reasonable times, of customer's premises served by the Authority when the Authority has reasonable cause to believe that customer utility fixtures, lines or equipment are being operated in a manner that would likely disrupt or interfere with the Pueblo water and sewer systems, or where the Authority has reasonable cause to believe there is a violation of this Code or Commission regulations. Except in case of an emergency, the Authority shall give the customer at least twenty-four (24) hours' written notice prior to entry and inspection; such notice shall include the purpose of the inspection and the authority to conduct such an inspection. The Authority may seek a Tribal Court order enforcing its right of entry and inspection if entry and inspection are refused after any required notice is made. If the Tribal Court determines that the customer unreasonably interfered with the Authority's inspection, it may assess court costs and related expenses against the customer.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-21 Public Hearings

The Commission shall hold a public hearing whenever a new fee schedule is proposed for adoption, and may convene public hearings on other topics as it deems appropriate, including rule hearings should the Commission determine such is necessary. All customers shall be given at least seven (7) days' written notice of a public hearing; adequate notice for a public hearing will be provided at appropriate places within the community and will include means such as, but not limited to, e-mail and posting on the marquee at the Tribal Administration complex, or by inclusion in bills sent to customers. Notices for public hearings about a new fee schedule shall include the proposed fee schedule. The Authority shall take into consideration comments received at a public hearing when deciding the matter for which the public hearing was called.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-22 Notice to Customers - Rates and Penalties

Fee schedules (for rates, fees, and other charges for water and sewer services) and penalty schedules will become effective upon their approval by resolution of the Commission or on the date specified in the schedule, if any. A copy of a fee or penalty schedule adopted by the Authority shall be posted by the Authority and sent to each customer at least thirty (30) days prior to the date the schedule takes effect.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-23 Promulgation of Regulations

A. Scope. The Commission shall have the authority to issue regulations not inconsistent with this Code, governing the proceedings of the Commission, the terms of service to customers, and other matters reasonably related to the foregoing and the implementation of this Code. The Director shall draft proposed regulations for the Commission's consideration.

B. Notice. The Commission shall publish proposed regulations in order to provide deadline for their submission not less than thirty (30) days after the first publication of notice. The Commission may, but is not obligated to, hold a public hearing on any proposed regulations, and if so shall make prior public announcement of the date, time and place of any such hearing, in accordance with Tribal Utilities Code Section 15-4-21.

C. Publication. The Commission shall publish the proposed regulation by posting notices for at least thirty (30) days at appropriate places within the community on Pueblo lands informing interested parties that the proposed regulation is available for inspection at the Authority's office. The notice shall identify the subject matter of the proposed regulations.

D. Effective Date. A regulation will become effective upon its approval by resolution of the Commission on the date specified in the resolution.

E. Promulgation. A copy of all regulations adopted will be filed and made available for public inspection at the Authority's office, and the Director shall endeavor to provide copies of relevant regulations to affected parties.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-24 Service Fees; Delinquent accounts; Stopping Service

A. The Authority shall invoice customers for services provided, according to the fee schedule adopted by the Commission.

B. Payments shall be made in the name of the Santa Ana Tribal Utility Authority and submitted to the Authority. The Authority shall submit all payments received to the Pueblo's Finance Department for deposit into the Authority's account.

C. If a payment past due is not paid within ten (10) working days after the next regular monthly due date, the account shall be declared delinquent. The Authority shall immediately notify the customer in writing that an account has been declared delinquent and of the sanctions that may be imposed without further notice. Notice of delinquency shall be made by certified mail, return receipt requested, or by such other means so as to provide proof of receipt by the customer.

D. The Authority may stop service to a customer with a delinquent account on any weekday except Friday. Notwithstanding the foregoing, the Authority shall not stop service to a residential customer for nonpayment: (1) if someone living in that residence is seriously ill, provided that the customer provides a letter from a licensed physician, physician's assistant or nurse practitioner certifying that a person residing in the home is seriously ill, and stating that stopping service will harm the ill person in the home; (2) if there is an infant under the age of twelve (12) months living in the residence; (3) if all of the adult residents are older than 65 years; or (4) if stopping service would cause a serious and immediate threat to the health or safety of a person living in the residence or nearby. In such instances, the customer must enter into a reasonable payment plan for the delinquency.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-25 Sanctions Authorized

Upon the failure of a customer to comply with any provisions of this Code or with any duly adopted regulation of the Commission, the Authority may:

- A. Terminate service(s);
- B. Assess penalties based on a penalty schedule adopted by the Commission;
- C. Assess late charges based on a schedule adopted by regulation of the Commission;
- D. Assess damages resulting from the customer's non-compliance;
- E. Declare a forfeiture of all or part of a customer's deposit;
- F. File suit for damages in a court of competent jurisdiction; and

G. With regard to violation by a non-residential, non-tribal customer, file a lien against the customer's property, foreclose on the lien in a court of competent jurisdiction, and seek satisfaction of the judgment from the customer's property.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-26 Complaints Against the Authority

A. Any customer or any applicant for services who is aggrieved by any action of the Authority shall, within ten (10) calendar days after any action giving rise to a complaint, present a complaint to the Authority staff member(s) designated to receive customer complaints for resolution and action. The Authority shall have in place procedures to handle complaints, and all complaints shall be handled in a courteous and professional manner. Complaints that cannot be resolved within ten (10) calendar days shall be referred to the Director. If the Director cannot resolve the complaint within five (5) working days after receiving the complaint, the Director shall refer the complaint to the Commission in writing.

B. The Commission shall handle each such complaint in a manner that provides for due process. The Commission will resolve such complaints within ten (10) working days and will issue a written decision. The Chair may call a special meeting of the Commissioners to resolve complaints as deemed necessary.

C. The Commission's decision may be appealed pursuant to Sections 15-4-27 through 15-4-29.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-27 Sovereign Immunity; Appeals

A. The Tribal Council hereby waives the sovereign immunity of the Authority and the Commission for the express, sole, and limited purposes of allowing review as provided for in this Code by the Tribal Court of Commission actions and decisions; provided, that any such appeals must be timely and properly filed; and provided further, that such waiver is made only to the extent necessary for the determination of rights and obligations under this Code and any regulations promulgated hereunder and does not waive immunity with respect to any suit against the Pueblo, the Authority, the Commission or any contractor or employee of the Authority for monetary damages. The Tribal Court is prohibited from ordering the Authority to pay any amount (including attorneys' fees and costs) other than a refund of amounts paid by the customer and sought in an appeal. This waiver is strictly limited and specifically does not waive the sovereign immunity of the Tribal Council, Pueblo, or of any other commission, agency, officer, employee, or agent thereof.

B. The Authority and the Commission may each waive its sovereign immunity protection in contract or otherwise only with the approval of the Governor.

Enacted by Resolution Number 00-R-67, adopted December 19, 2000; and, Amended by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-28 Finality of Commission Decisions

If no appeal is timely made to the Tribal Court, a decision by the Commission will be final, binding, and enforceable, and will not be subject to any appeal to any court or tribunal. Nothing in this section shall limit the Tribal Council's power, with good cause, to override a decision by the Commission regarding matters related to the expansion of the Pueblo water and sewer systems and related infrastructure and to direct the Authority to take or not to take certain actions.

Enacted by Resolution Number 16-R-66, adopted November 17, 2016.

Sec. 15-4-29 Appeals from Commission Decisions

A. Appeals to the Tribal Court. The Tribal Court shall have exclusive jurisdiction to hear all appeals from final decisions of the Commission, and the procedural rules of that court shall apply.

B. Filing a Notice of Appeal to the Tribal Court. Within twenty (20) calendar days after the customer's or aggrieved party's receipt of a final decision of the Commission or with twenty (20) calendar days of the effective date of a regulation promulgated by the Commission, the customer or aggrieved party may file an appeal to the Tribal Court, by filing a Notice of Appeal with the court clerk stating the date of the decision and the specific issue or finding being appealed. A filing fee equal to the court's fees for filing a civil action shall accompany the Notice. The party appealing the decision must serve a copy of the Notice of Appeal on the Authority and the Commission, care of the Director. Thereafter, the Commission shall file a full record of its proceedings with the Tribal Court.

C. Review on the Record. The Tribal Court shall consider the appeal only to the same extent and upon the same theories and evidence as were asserted at the hearing before the Commission. All such appeals shall be upon the administrative record presented to the Commission, together with briefs and argument.

D. Standard of Review. The Tribal Court shall set aside a decision of the Commission only if it finds the decision to be:

1. arbitrary, capricious, or an abuse of discretion;
2. not supported by substantial evidence in the record; or
3. otherwise not in accordance with applicable law.

E. Decisions of the Tribal Court. The Tribal Court shall issue a written decision on all appeals, which decision shall be final, binding, and enforceable, and will not be subject to any further appeal to any court or forum.

Enacted by Resolution Number 16-R-66, adopted November 17, 2016.

ARTICLE 5 - REGULATION OF SANITATION FACILITIES

- Reserved -

ARTICLE 6 - REMEDIES FOR ENVIRONMENTAL PROTECTION

- Reserved -

ARTICLE 7 - GENERAL LAND USE & BUILDING

Sec. 15-7-1 Purpose

Uncontrolled use and development of land within the Pueblo is detrimental to the members of the Pueblo, jeopardizes the value of the land and water, impairs the economic benefits of the Pueblo's natural resources and damages the environment. The controls set forth in this General Land Use and Building Code ("Code") are deemed necessary in order to encourage the most appropriate use of the land; to protect the social and economic stability of residential commercial, agricultural, and other areas within the Pueblo; to protect the Pueblo's natural resources; and to otherwise promote the public health, safety and general welfare of all members, residents and lessees of the Pueblo. The regulations and restrictions set forth in this Code are required in order to secure safety, control congestion of traffic, avoid undue concentration of population, control and abate the unsightly use of buildings or land, to facilitate community services, to encourage the most appropriate use of land, to achieve goals for growth management and to conserve and stabilize the value of property.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-2 Applicability

This Code shall apply to all lands within the boundaries of the Pueblo, whether such lands are trust lands, restricted lands, fee lands, or lands otherwise held.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-3 Definitions

For the purpose of interpreting this Code, the following definitions and rules of construction shall apply, unless such definition or construction would be inconsistent with the intent of the Tribal Council, or the content clearly requires otherwise. Except as defined herein, all other words used in this Code shall have their customary dictionary definition.

- A. "Administrator" means the Planning and Zoning administrator for the Santa Ana Pueblo.
- B. "Applicant" refers to the person, including government entities, seeking a zoning plan check, development approval, building permit, variance, refund or credit, which ever is applicable.
- C. "Application" means all the documents and fees required to be submitted to the Pueblo for a permit or approval.
- D. "Build" means to erect, convert, enlarge, reconstruct or structurally alter a structure.

E. “Building” means any structure having a roof supported by posts, timbers, columns or walls, and intended for any use by persons and/or animals.

F. “Building Inspection” refers to any and all building inspections required by the Pueblo for new building construction or alterations to existing buildings, free standing signs, and structures.

G. “Building Permit” means the permit as required by the International Building Codes and as administered pursuant to the construction standards of the Pueblo Tribal Administration.

H. “Demolition” means the intentional act of substantially pulling down, destroying, dismantling, defacing, removing or razing a building or structure, or commencing the work of a total, substantial or partial destruction of a building or structure with the intent of completing the same. Also included within the meaning of demolition is the act or process of delaying or withholding maintenance of a building or structure in such a way as to cause or allow significant damage to occur which may result in a hazard or nuisance.

I. “Dwelling” means any building or part of a building intended for human occupancy and containing one or more connected rooms and a single kitchen, designed for one family for living and sleeping purposes.

J. “Enterprise District” means a land use area in which is located commercial activities and other compatible uses, including but not limited to, light manufacturing, commercial agricultural and commercial activities. All commercial activity within the Pueblo shall be located within the boundaries of an Enterprise District. The Enterprise District shall be designated by the P & Z Board on the zone map of the Pueblo. The Enterprise District is further described in Sec. 15-7-13 of the Code.

K. “Family” means one or more persons occupying a single dwelling unit, all of whom are related to each other by blood, marriage or legal adoption, or no more than five (5) persons occupying a single dwelling if they are not related to each other by blood, marriage or legal adoption.

L. “Height” means the vertical distance of any building and/or structure measured from the lowest undisturbed grade adjacent to the structure to the highest point of the structure.

M. “Jurisdiction” means all territory within the Pueblo, including trust lands, restricted lands, fee lands or lands otherwise held.

N. “Landscaping” means the planned introduction of living plants such as trees, shrubs, ground cover, or grass and non-living materials such as rocks, gravel, mulch, fences, walls, or paving materials, but does not include the growing of crops, fruit trees, vegetables or nursery stock for commercial purposes.

O. “Lot Coverage” means the total area covered by roofed structures, parking lots, driveways and sidewalks, divided by the total area of the lot.

P. “Month” means one (1) calendar month.

Q. “Open Space” means undeveloped ground area which may be covered with vegetation, landscaping, and/or non-vehicular traffic, set aside, dedicated, designated or reserved for public or private use or enjoyment.

R. “P & Z Board” means the Planning and Land Use Board for the Pueblo, as established herein, or the administrative officer designated to act for the Commission when summary procedures are required.

S. “Person(s)” means any individual, partnership, corporation, firm, association, organization, trust, company, club, society, group, political body or governmental entity.

T. “Public Notice” means the posting of notices in accordance with Pueblo rules and regulations,

U. “Roofed Area” means the percentage of the lot area which may be covered by roofed structures.

V. “Structure” means anything constructed or erected, the use of which requires permanent location either on or below the ground, or attachment to something having a permanent location either on or below the ground, including without limitation advertising signs, telecommunication facilities, light poles and storage buildings.

W. “Variance” means an adopted, limited deviation from the strict application of the Code, building code or municipal code, applicable to a designated parcel or parcels of land.

X. “Year” means one (1) calendar year.

Y. “Zone” means a section of the jurisdiction, delineated on the Pueblo zone map, to which specific zoning regulations apply.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; andn, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-4 Planning and Zoning Board

A. General. The P & Z Board for the Pueblo shall have the authority to administer and enforce this Code. The P & Z Board shall consist of five (5) voting members from the Pueblo, which members shall be appointed by the Tribal Council.

B. Term of Office. Each of the five (5) appointed voting members of the P & Z Board selected by the Tribal Council shall reside within the Pueblo and serve a term of either three (3), four (4) or five (5) years, based on the sole discretion of the Tribal Council. The terms of the P & Z Board members shall be staggered for overlapping terms. Any vacancy shall be filled by appointment by the Tribal Council for the remainder of the unexpired term only.

C. Procedures, Meetings, and Rules. The P & Z Board shall elect from their membership a Chairperson and Secretary and may create and elect other such officers from their membership as it may deem necessary. The P & Z Board shall meet as often as necessary to carry out its work, but no less than once per month. All meetings of the P & Z Board shall be open to the public and shall conform with the open meetings policies of the Pueblo, except that the P & Z Board may decide to

close a portion of a meeting pursuant to rules of procedure adopted by the Board. The P & Z Board shall adopt such rules of order and procedure as it may find necessary and proper to carry out its work. The P & Z Board shall keep a written record of its meetings, transactions, findings and decisions. Such records shall be filed with Tribal administration and kept available for public inspection during normal business hours. No member of the Board shall serve as a staff member to the P & Z Board.

D. Reports to Tribal Council. The P & Z Board shall report biannually to the Tribal Council, or as requested by the Tribal Council, concerning its activities.

E. Power, Duties, Purpose and Responsibilities. The P & Z Board shall have such powers and duties as may be delegated to it by the Tribal Council and other such power, authority, jurisdiction and duty incidental and necessary to carry out its purposes. The P & Z Board shall have the following responsibilities:

1. Act in an advisory capacity to the Tribal Council regarding matters of planning, zoning and land use;
2. Review and either approve or disapprove any and all applications for building permits, zone map amendments, zoning variances, and any other applications submitted pursuant to this Code;
3. Review and interpret any proposed creation of additional land use zones and proposed land use projects and shall make recommendations to the Tribal Council as to the number, location and boundaries of the Pueblo's Zoning Districts;
4. Conduct any and all administrative review and approval by the P & Z Board staff, Santa Ana Utilities Department and Historic Preservation of all plans for proposed new buildings and structures, additions to existing buildings and structures, and renovation of existing buildings and structures within the Pueblo boundaries, prior to submitting plans for an issuance of building permit, to insure compliance with zoning, building design, soil erosion and flood control regulations of the Pueblo;
5. Adopt and may amend from time to time a schedule of fees to be paid by any person submitting any application to the P & Z Board. Such fee schedule may include impact fees, as determined by the P & Z Board. The P & Z Board may secure assistance in determining the impact fee schedule from the Bureau of Indian Affairs, public and private planning agencies, and Pueblo technical staff, provided that no expense chargeable against the Pueblo may be incurred without the prior approval of the Tribal Council;
6. Secure approval from the Tribal Council for inquiries, investigations and surveys concerning the land resources of the Pueblo as needed in the Commission's judgment for land use purposes;
7. Assemble and analyze the data which is obtained and formulate plans for the conservation utilization and development of such land resources, including recommending the establishment of residential, agricultural and other zones as needed;
8. Make recommendations to the Tribal Council as to the best methods of such land conservation, utilization and development;
9. Hire and maintain administrative professionals and office staff as it deems necessary to perform its functions, subject to the budget adopted by the Tribal Council; and

10. Possess such powers and perform such duties as may now or hereafter be authorized by the Tribal Council.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; Amended by Resolution Number 09-R-15, adopted March 18, 2009; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-5 Design Review Committee

A. General. The Design Review Committee shall consist of seven (7) members including one representative from each of the following (each of the following boards shall determine who their representative shall be):

1. Southern Sandoval Investments, Ltd.;
2. Santa Ana Golf Corporation;
3. Tribal Administration;
4. P & Z Board;
5. Santa Ana Pueblo Hospitality Board;
6. Tamaya Enterprises Inc.; and
7. Santa Ana Pueblo Tribal Utilities Board

The Design Review Committee shall review and have veto authority for the architectural design and aesthetics for all projects located in any Enterprise District west of the Rio Grande River. The P & Z Board shall call a meeting of the Design Review Committee for any large scale building project or development on an as-needed basis.

B. Powers, Duties, and Purpose. The Powers of the Design Review Committee shall include reviewing and either approving or disapproving site plans, building designs and signage for all projects in ED-1 and ED-2 Zones (as defined within this Code) located west of the Rio Grande River. The purpose of the Design Review Committee is to ensure the overall quality of development on the lands subject to their authority and to maintain an aesthetic integrity, which enhances the value of those lands. Projects subject to the authority of the Design Review Committee must receive the approval of the Design Review Committee prior to being submitted to the P & Z Board.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996;and, Aamended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-6 Nonconforming Uses

A. Any building, structure or use of land legally in existence before adoption of this Ordinance, that were in conformity with the applicable zoning ordinance and regulations when created, but which would not be permitted under the terms of any Article of this Code, it is the intent of this Section to:

1. Allow these nonconforming uses to continue until they are removed, so long as such building, structure or use remains otherwise lawful;
2. Not encourage the survival of such nonconforming uses;
3. Insure that the nonconformity shall not be enlarged upon, expanded or extended, or reconstructed to continue the nonconformity after major damage. "Major damage" for the purpose of this Section is hereby defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of damage; and

4. Not permit the nonconformity to be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

B. On any building or structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs to an extent not exceeding twenty-five percent (25%) of the current replacement value of the building or structure. Nothing in this Section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or structure or part thereof declared to be unsafe by any official charged with protecting public safety, upon order of such official.

C. When a nonconforming building or structure is abandoned or not used for a period of six (6) consecutive months or for eighteen (18) months during any three (3) year period, the use shall not thereafter be reestablished, and any future use must be in conformance with this Code.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec.15-7-7 Variances

A. The P & Z Board is authorized to issue, in its own discretion, a variance from the terms of this Code where due to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary hardship that would deprive the applicant of the reasonable use of the land or building, provided that the following conditions are met:

1. The variance will not be contrary to the public interest;
2. The variance will not adversely affect adjacent property owners or residents; and
3. The perceived need for the variance is due to unique characteristics of the property that were in existence prior to the adoption of this Article, or that have come into existence since that time through no action of the applicant.

B. Any applicant proposing to construct, alter, repair, maintain or use any building, structure or land in violation of this Code shall apply to the P & Z Board in writing for a variance. To be granted a variance, an applicant must show:

1. That special circumstances exist, which are not caused by actions of the applicant and which are peculiar to the land, structure or buildings involved;
2. That unless a variance is granted, the applicant will sustain unnecessary hardship out of proportion to the public gain achieved by compliance with the Code; and
3. That granting the variance requested will not confer on the applicant any special privilege that is denied to other permit holders in the zone district.

C. Upon receipt of an application for a variance, the P & Z Board may hold a public hearing by publishing a notice of hearing at least ten (10) business days prior to the hearing in a publication serving the residents of the Pueblo. Any party may appear at the hearing in person, or by agent. The P & Z Board shall issue written findings and a decision granting or denying the application for variance within the later of (i) twenty-one (21) business days after receipt of the application, or (ii)

twenty-one (21) business days after the public hearing, if such hearing is held, except that this time limitation may be extended upon a finding of need by the P & Z Board.

D. If a variance is granted, the P & Z Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance and may make such conditions and safeguards a part of the terms under which the variance is granted.

E. The applicant for the variance or any tribal member of the Pueblo who is aggrieved by the decision of the P & Z Board in carrying out the provisions of this Article may appeal to the Tribal Council by Filing a notice of appeal specifying the grounds thereof within twenty-one (21) business days after the P & Z Board issues its decision. A proper appeal by an aggrieved party shall stay all proceedings in furtherance of the action appealed from, unless the P & Z Board determines that a stay will cause imminent peril to life or property, in which case, the proceedings shall not be stayed except by a court of competent jurisdiction. The Tribal Council shall hear the appeal at its next regularly scheduled meeting or at a special meeting held not more than thirty (30) days from the date of the appeal. Public Notice of the appeal shall be given and interested parties shall be notified of the hearing date and time. At the hearing, any party may appear in person or by agent. The Tribal Council shall decide the appeal within a reasonable time. The decision of the Tribal Council is final.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-8 Zone Map Amendments

A. Proposed zoning amendments in any zone district shall be submitted to the Tribal Council through the P & Z Board.

B. The P & Z Board shall study the proposal and shall schedule a hearing on the application to occur at a regular P & Z Board meeting or at a special meeting, if necessary, no later than sixty (60) days following the submittal of the application. Following the hearing, the P & Z Board shall submit its recommendations on the zone map amendment to the Tribal Council within fifteen (15) days after its review of the proposed zone map amendment is completed. Notice of the application must be posted on the property at least one (1) week prior to consideration of the application by the Board.

C. The Tribal Council shall schedule a hearing on the application for a zone map amendment as soon as reasonably practicable, but no more than one hundred twenty (120) days after the P & Z Board's recommendation is submitted to the Tribal Council. The Tribal Council shall make a final determination in accordance with Tribal regulations pursuant to its own rules governing quasi-judicial hearings and upon specific findings related to the affected property and consistent with the policies and criteria set forth in Subsection D of this section.

D. The following policies for deciding zone map amendment applications pursuant to this Code are hereby adopted:

1. A proposed zone amendment must be found to be consistent with the health, safety, morals, and general welfare of the Pueblo;

2. Stability of land use and zoning is desirable; therefore, the applicant must provide a sound justification for the amendment. The burden is on the applicant to show why the change should be made, not on the Pueblo to show why the amendment is proper;

3. A proposed amendment shall generally be consistent with adopted elements of the Zoning District Plan or other Pueblo general master development plans and amendments thereto including privately developed area plans outside the master development plans which have been adopted by the Pueblo; and

4. The applicant must demonstrate that the existing zoning is inappropriate because:

a. There was an error or mistake, or it is necessary to correct an injustice that occurred when the existing zone map pattern was created, including the placement of a residential zone or transitional zone on an antiquated plat filed before the Pueblo's incorporation and adoption of its own zoning code or on land annexed by the Pueblo; or

b. Changed neighborhood or community conditions justify the change; or

c. A different use category is more advantageous to the community, as articulated in the ED-1 and ED-2 master plan, even though (D) (1) or (2) does not apply. Applicant's reliance on this provision requires proof that (i) there is a public need for a change of the kind in question, and (ii) that need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

E. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a zone map amendment.

F. Location on a collector or major street is not in itself sufficient justification of apartment, office, or commercial zoning.

G. A zone amendment request which would give a zone different from surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be adopted only when:

1. The change will clearly facilitate realization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or

2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-9 Administration and Enforcement

A. Except as otherwise provided in this Article, the P & Z Board, its designee, administrator and the code enforcement officer(s) shall administer and enforce these ordinances and codes,

including the inspection of premises, issuance of permits authorized in these ordinances and the issuance of citations.

B. The P & Z Board, their designee, administrator and code enforcement officer(s) have the authority to enter all buildings and structures for the purpose of inspection as necessary to perform assigned duties. No dwellings, however, may be entered without consent of the owner or occupant unless at least a twenty-four (24) hour notice of intent to enter has been served upon the occupant or owner. If the owner or occupant objects to the inspection, a warrant for the inspection shall be obtained before the inspection from the Tribal Court.

C. If any building or structure is constructed, altered, repaired, maintained, or used in violation of this Ordinance, the P & Z Board or the Pueblo may institute any appropriate action or proceeding in Tribal Court to prevent such unlawful construction, alteration, repair, maintenance or use; to restrain, correct or abate such violation or to prevent the occupancy of such building, structure or land.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-10 Penalties

A. Any person who willfully fails to comply with any of the requirements of this Code shall be subject to a civil fine as determined by the Tribal Court.

B. Any person aggrieved by an Code violation or apparent Code violation may file a written complaint with the P & Z Board, who shall investigate the complaint and take appropriate action, including the issuance of citations, to have the violation penalized and removed, if the violation is found to exist.

C. In the event the P & Z Board finds probable cause to believe that a violation pursuant to this Code exists, it shall notify the person responsible for the alleged violation in writing and shall order the necessary correction to be made within a thirty (30) days, or as otherwise stated. If the violation is not corrected within the specified time, the P & Z Board or the code enforcement officers may issue a citation ordering the responsible person into court.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-11 Effective Date

This Code shall take effect and be in force from and after its adoption by the Tribal Council. Approval of this Code by the United States Department of Interior, Bureau of Indian Affairs is not deemed necessary.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-12 Establishment of General Zone Districts

For the purpose of this Ordinance, the following zone districts exist:

ED-1: Retail Commercial

ED-2: Resort and Recreation MD-1; Municipal

WD-1; Rural Lands/Wildlife
RA-1: Residential and Agricultural
HD-1: Historical
R-1: Single-family Residential
R-2: Multi-family Residential
R-3: Mixed Residential OS-1: Open Space
SU: Special Use

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-13 Enterprise District

A. Purpose. The Pueblo recognizes the need to promote the orderly growth and development of commercial activities so as to protect the value of the Pueblo's land and water and other natural resources for the benefit of the Pueblo, its members and all persons within the Pueblo's boundaries. The purpose of creating and regulating Enterprise Districts is to ensure the orderly growth and development of commercial activities within the Pueblo by identifying as Enterprise Districts those areas suitable for commercial development and regulating the activities therein.

B. Description. An "Enterprise District" is a land use area in which is located commercial activities and other compatible uses, including but not limited to, light manufacturing, commercial agricultural and commercial activities that serve the general community on a day-to-day basis. Except as provided for in Sections 1.06 (Nonconforming Uses) and 1.07 (Variances) herein, all commercial activity within the Pueblo shall be located within the boundaries of an Enterprise District. The activities in this area must be environmentally compatible with the surrounding area. Residential uses are not allowed in this area, except that manager units in motels or hotels may be permitted and one residence per business site for the housing of security personnel may be permitted. Commercial buildings and structures within the Enterprise District shall be constructed of non-combustible materials and meet commercial building standards. Where a fire suppression system is provided in a building or structure alternate building materials may be allowed as adopted by the adopted codes. As provided in this Code, an Enterprise District may contain any one or more of the following zones: ED-1 Retail Commercial District, ED-2 Resort and Recreation District; MD-1, Municipal District, WD-1 Rural Lands / Wildlife District, and HD-1 Historical District.

C. Designation of Enterprise District. The number, location, shape, boundary and area of Enterprise District shall be designated by the P & Z Board, subject to the review and approval of the Tribal Council. In the event that any person seeks a permit pursuant to Section 3.04 of this Code prior to final designation of an Enterprise District boundary, the P & Z Board is authorized to review the permit application and grant or deny a permit consistent with the provisions of this Code. The decision of the P & Z Board is subject to appeal to the Tribal Council by the permit applicant or any aggrieved tribal member of the Pueblo who is directly and adversely affected, pursuant to the procedures set forth in Sec. 15-7-36 of this Code.

D. Official Enterprise District Map.

1. The boundaries of any Enterprise District established pursuant to this Code shall be shown on an official Enterprise District Map ("Map"), which is hereby incorporated into and made part of this Ordinance. The Map also may designate the boundaries of the ED-1, ED-2, MD-1, WD-1, and HD-1 zones within an Enterprise District. The Map shall be updated and adopted by the

P & Z Board and Tribal Council on an annual basis to incorporate changes to boundaries. The Map shall be identified by the signature of the Governor and Lieutenant Governor and attested to by at least one member of the Tribal Council. The Map shall be located in the P & Z Board Room and the planning office of the Pueblo and shall be available for review by the public.

2. The boundaries of any Enterprise District may be amended from time to time by the P & Z Board, subject to the approval of the Tribal Council, pursuant to Subparagraph E below. Any amendments so made shall be promptly noted on the Map by the chief planning officer or a member of the P & Z Board.

3. If for any reason, there is any uncertainty, contradiction or conflict as to the intended location of any Enterprise District boundary or the zones therein, an interpretation concerning the exact location of the boundary line shall be rendered by the P & Z Board, subject to appeal to the Tribal Council in accordance with Sec. 15-7-36 of this Code.

E. Enterprise District Map Amendments. The location and boundary of any Enterprise District or any regulation pertaining to any Enterprise District may be amended subject to the following procedure:

1. An amendment may be proposed by the Tribal Council, P & 2 Board or any person in writing and all proposed amendments shall be submitted to the P & Z Board for study and recommendation;

2. Within sixty (60) days from the date that any proposed amendment shall be referred to the P & Z Board, the P & Z Board shall submit its report and recommendation to the Tribal Council (the recommendation of the P & Z Board shall be advisory only, and shall not be binding on the Tribal Council);

3. Before taking action on any proposed amendment and the P & Z Board's recommendation, the Tribal Council shall hold a public hearing, with Public Notice to be given as provided for in Sec. 15-7-3(T) of this Code; and

4. A proposed amendment shall not become effective except by the majority vote of a quorum of the members of the Tribal Council.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-14 ED-1: Retail Commercial District

A. Purpose. This zone provides suitable sites for limited commercial uses to satisfy the day-to-day needs of Pueblo residents, lessees, and motorists passing through the Pueblo.

B. Permissive Uses. Any of the following permissive uses are allowed in the ED-1 Zone:

1. Stores for the sale of retail goods, products, and services;
2. Restaurants, bars, and lounges;
3. Repair shops - electrical, radio, and television appliances, lock smith, and similar Articles;

trades;

4. Shops - dressmaking, tailoring, laundry, dry cleaning, photo, pet, and similar

5. Banks and office buildings;

6. Bakeries and confectioneries where goods are sold at retail prices;

7. Parks, recreational parks, and open spaces;

8. Nursery schools and daycare facilities;

9. Undertaking establishments;

10. Medical complexes, professional offices associated with medical complexes, and veterinarians;

11. Construction trailers for a period not to exceed twenty-one (21) days before construction plus the entire period of construction up to six (6) months and no more than thirty (30) days after construction has finished; provided, that the use of the trailer is for assisting in the security of the construction site and facilitating the delivery of construction material, and that no sales are conducted from the construction trailer either before or after the site development is completed. If an extension is needed, application to and certification from the administration is necessary and may be granted for up to one hundred twenty (120) days;

12. Photocopying and blueprinting;

13. Public and emergency services facilities;

14. Hospitals;

15. Nursing homes, senior transitional living and care facilities and similar institutions;

16. Temporary structures and enclosures used in construction of a building and used for storage of equipment and material. Such structure must be removed after the specific construction project is completed and not to remain on the premises for more than one (1) month after completion. Temporary commercial structures used for seasonal purposes may be erected for a period of not more than 90 days. But, in no case shall the structure or enclosure be present for longer than one (1) week after the ending of the season for which it was intended;

17. Drive-in or drive-up window restaurants, and/or convenience stores, provided drive-up liquor dispensing windows are excluded at such establishments;

18. Auditoriums, bowling alleys, billiard or pool halls, dance halls, theaters, skating rinks, and other indoor entertainment establishments;

19. Manager/caretaker residential uses within the structures;

20. Offset press printing.

- a. Maximum of two (2) offset printers;
- b. Maximum size of offset duplicator machines shall not exceed twenty inches (20") each;

21. Gasoline service stations, convenience stores, and car washes;

22. Auto repair, minor;

23. Day spa;

24. Public, private or charter schools;

25. Park and ride facilities and parking lots;

26. Permanent outdoor sales display, provided:

- a. Any area proposed for a permanent outdoor sales display shall be delineated as such on applicable site or development plans;

- b. No permanent outdoor sales display shall be allowed in areas set aside, required, or designated For driving aisles, driveways, maneuvering areas, emergency access ways, off-street parking, or loading/unloading; and

- c. No permanent outdoor sales display shall be located within any clear sight triangle as defined by code or in any manner that would limit adequate sight distances for interior vehicular traffic movement;

27. Outside storage, as an accessory use, provided:

- a. A buffer wall as described in Subsection I of this Section shall separate outside storage from abutting properties and rights-of-way;

- b. Proposed outside storage areas shall be delineated as such on applicable site or development plans;

- c. Stored materials shall not be stacked or arranged above the height of the screen wall or fence. If a stored vehicle or other individual item exceeds the height of the screen wall or fence, it shall be stored no less than fifteen feet (15') from an abutting property or right-of-way; and

- d. Storage of inoperable vehicles or operable heavy equipment shall comply with this Section; however, parking areas for operable personal vehicles of customers and employees, and display areas for sales or rental of operable vehicles, are not considered outside storage.

C. Conditional Uses. The following uses are allowed in the ED-1 District only upon the approval of a site development and/or subdivision plan by the P & Z Board:

1. Automotive dealers, motorcycle dealers and auto repair; provided that:

a. Repairs and associated activities are conducted within a completely enclosed building; or

b. A solid masonry wall at least six feet (6') high is erected between the activity and any abutting or contiguous residential zone; and

c. Applicants shall provide site plans which show lot dimensions, location and dimensions of proposed structures/facilities, parking, proposed signage, landscaping and buffers; if applicable, information with regard to the nature of the operation as well as hours of operation, for review and approval by the Planning and Zoning Board.

2. Self-storage facilities. Applicants shall provide a site plan which includes at minimum the following information: lot dimensions, location and dimensions of proposed structures/facilities, parking, proposed signage, landscaping and landscape buffers and, if applicable, information with regard to the nature of the operation as well as hours of operation, for review and approval by the Planning and Zoning Board,

3. Circuses, carnivals, flea markets, fireworks stands and other similar outdoor amusement activities, provided that lighting is located so it does not reflect off the premises and complies with the Night Sky Protection Act.

4. Telecommunication facilities.

D. Area. Minimum lot size shall be one-quarter (1/4) acre. Minimum lot width shall be eighty feet (80').

1. Setbacks.

a. Front - thirty feet (35');

b. Rear - twenty-five foot (25') setback with landscaped buffer is required for buildings up to thirty-five feet (35') in height. For portions of a building greater than thirty-five feet (35') in height, the building shall have a step-back of one foot for each additional four feet (4') of height up to the maximum height of the district;

c. Side - zero feet (0w), unless abutting a residential zone then, a 10-foot setback with landscaped buffer is required for buildings up to thirty-five feet (35') in height. For portions of a building greater than thirty-five feet (35') in height, the building shall have a step-back of one foot for each additional four feet of height up to the maximum height of the district;

d. Corner side - ten feet (10');

e. Trash containers and trash compactors - fifteen feet (15') from the property line when adjacent to land planned or zoned for a single-family residential use. All trash containers and trash compactors shall be screened from a public right-of-way by decorative wall or enclosure and shall be not less than two feet (2') above the height of the trash container or compactor.

f. Flag poles - twenty-five feet (25') from any property line, with a maximum height of fifty feet (50'). Pole heights greater than fifty feet (50') may be approved by conditional use permit.

E. Dimensional Requirements and Building Design Standards.

1. Roofed area shall not exceed sixty percent (60%) of the lot area.
2. Lot Coverage shall not exceed eighty-five percent (85%) of the lot area.
3. Building design standards shall be as follows:
 - a. A minimum of thirty percent (30%) of the area of each building elevation shall consist of opaque walls.
 - b. A minimum of ninety percent (90%) of the area of opaque walls shall be stucco in earth-toned colors.
 - c. A minimum of seventy-five percent (75%) of the total roof perimeter shall be concealed behind parapet walls.
4. Off-street parking and loading shall be provided in accordance with Subsection G of this Section.
5. Landscaping, walls, fences, and site lighting shall be in accordance with Subsection H of this Article.
6. Signs shall be in accordance with Sec.15-7-25 of this Code.
7. All commercial buildings are required to have building address numbers visible on the side of the building or structure facing main entrance street/road.

F. Height. Maximum building height shall not exceed fifty feet (50'); up to seventy-eight feet (78') with an adopted conditional use permit, provided however, that a maximum of fifty percent (50%) of total roofed area may exceed twenty-four feet (24') of height. Flagpoles, antennas, chimneys and similar building accessories are exempted from these height limitations.

G. Off-street Parking. Off-street parking shall be provided as set forth in Sec. 15-7-27. Parking will be permitted in setbacks unless otherwise restricted in an adopted plan.

H. Landscaping. Appropriate landscaping shall be provided for visual relief along the frontage of the parcel; provided, that no less than ten percent (10%) of the lot shall be landscaped, and no less than one-fourth (1/4) of the ten percent (10%) shall be located on the front. Cool season turf grass shall be limited to areas designated for recreational use and shall be limited to a maximum of one thousand (1,000) square feet or twenty percent (20%) of the total lot area, whichever is less. Cool season turf grasses include but are not limited to the following species: *Poa pratensis* (Kentucky Bluegrass), *Festuca* spp. (Fescues), and *Lolium* spp. (Ryegrasses). Plant materials shall be limited to species that are not listed as high water use in the Pueblo plant list. Existing turf and other plants installed prior to October 1, 2011, are exempt from this regulation.

I. Buffer Zone.

1. Buffer wall. The buffer wall shall be a minimum of six feet (6') in height and shall be constructed of masonry, sealed adobe, brick, chain link with winged slats or other solid material.

2. Buffer landscaping.

a. Landscaped buffer areas shall be a minimum of ten feet (10') in width measured perpendicular to the buffer wall, or from the property line if no wall is required.

b. The landscaped buffer areas shall include a minimum of one buffer tree per twenty-five feet (25), or an adopted equivalent screening density. Minimum tree sizes at the time of planting shall be three inch (3") caliper, or thirty inch (30") boxed variety or thirty (30) gallon container, or at least ten feet (10') in height.

c. Where nonresidential property abuts residential property, the landscaped buffer shall be located inside the buffer wall.

d. Where the nonresidential district is adjacent to the residential district and is separated by a public thoroughfare, the landscape buffer shall be located outside the wall, or when there is no wall the landscape buffer shall be about the property line. In cases where the building is acting as a partial wall buffer, the landscape buffer may be more than ten feet (10') in width to allow for the appropriate building setbacks.

e. Buffer trees may be a mix of conifers and deciduous trees; however, the emphasis shall be placed on conifers.

f. Buffer landscaping shall be maintained and kept clean of debris and weeds. Any buffer planting shall be maintained permanently and any plant material which does not live shall be replaced within one (1) year or one (1) growing season.

g. If the buffer wall plus retaining wall have an effective height of over eight feet (8') on the residential side, the Pueblo shall decide the required height.

J. Night Sky Protection Act. Any lighting shall comply with the Night Sky Protection Act and be placed so as to reflect the light away from adjacent ED-2 Resort Areas.

K. Nuisance. No unreasonable noise, odor, or vibration shall be emitted by uses outside the boundaries of the ED-1 District.

L. Other Similar Establishments. The P & Z Board is authorized to grant a permit for a commercial use not included in Subsection B of this Section if the P & Z Board finds that the proposed use is not offensive or incompatible with the character of the ED-1 District. The P & Z Board shall hold a public hearing pursuant to the procedures set forth in Sec. 15-7-32 of this Code if a permit is sought for a use not included in Subsection B of this Section.

Sec. 15-7-15 ED-2: Resort and Recreation District

A. Purpose. This zone provides suitable sites for activities designed to meet the recreational needs of Pueblo residents and visitors and overnight lodgers.

B. Permissive Uses. Any of the following permissive uses are allowed in the ED-2 Zone:

1. Hotel and accessory commercial uses, including providing food and drink for consumption on or off premises, subject to proper licensing;
2. Casino;
3. Open spaces and trails;
4. Nature Center;
5. Health spa/gymnasium;
6. Event Center;
7. Restaurant(s);
8. Golf course and accessory restaurant and bar;
9. Public park, playground, soccer field and other play fields;
10. Riding stable;
11. Campground(s);
12. Gift shop or specialty shop; and
13. Art, book, music or photography shop.

C. Conditional Uses. The following uses are allowed in the ED-2 District only upon the approval of a site development and/or subdivision plan by the P & Z Board:

1. Church;
2. General store;
3. Telecommunication facilities; and
4. Wind energy systems and meteorological towers.

D. Dimensional Requirements.

1. Minimum lot size shall be two (2) acres.

2. Minimum lot width shall be two hundred feet (200').
3. Maximum roofed area shall be forty percent (40%) of the lot area.
4. Maximum Lot Coverage shall be seventy percent (70%) of the lot area.
5. Minimum setbacks shall be as follows:
 - a. Front yard; fifty feet (50').
 - b. Side yards; twenty-five feet (25').
 - c. Rear yard; twenty-five feet (25').

6. Building design standards shall be as follows:

a. Maximum building height shall not exceed sixty feet (60'); provided however, that a maximum of fifty percent (50%) of the total roofed area may exceed thirty-six feet (36'). Flagpoles, antennas, chimneys and similar building accessories are exempted from these height limitations.

b. A minimum of thirty percent (30%) of the area of each elevation shall consist of opaque walls.

c. A minimum of ninety percent (90%) of the area of opaque walls shall be stucco in earth-toned colors.

d. A minimum of seventy-five percent (75%) of the total roof perimeter shall be concealed behind parapet walls.

e. Any proposed structure higher than sixty feet (60') shall require P & Z Board approval.

7. Off-street parking and loading shall be provided in accordance with Sec. 15-7-27 of this Code.

8. Landscaping, walls, fences and site lighting shall be the same as ED-1.

9. Signs shall be in accordance with Sec. 15-7-25 of this Code.

E. Other Similar Establishments. The P & Z Board is authorized to grant a permit for a commercial use not included in Subsection B of this Section if the P & Z Board finds that the proposed use is not offensive or incompatible with the character of the ED-2 District. The P & Z Board shall hold a public hearing pursuant to the procedures set forth in Sec. 15-7-32(B) of this Ordinance if a permit is sought for a use not included in Subsection B of this Section.

Sec. 15-7-16 MD-1: Municipal District

A. Purpose. This provides suitable sites for public and administrative office(s), general service, institutional, utilities and limited commercial uses to satisfy the day-to-day needs of Pueblo residents.

B. Permissive Uses. Any of the following permissive uses are allowed in the MD-1 Zone:

1. Tribal Public Administration Facilities;
2. Police and Fire Stations;
3. Medical and Wellness Centers;
4. Public utilities including production and disposal facilities, storage yard, or supply base;
5. Recreational Facilities and Parks;
6. Public Utility based substation
7. Churches;
8. Community Centers; and
9. Government and Program(s) Facilities.

C. Conditional uses. The following uses are allowed in the MD-1 District only upon the approval of a site development and/or subdivision plan by the P & Z Board:

1. School, public and private;
2. Museums (public);
3. Governmental buildings of governmental units other than the Pueblo; and
4. Senior living facilities.

D. Dimensional Requirements.

1. Minimum lot size shall be one (1) acre.
2. No structure or building shall exceed a height of thirty-eight feet (38').
3. Setbacks.
 - a. Front thirty-five feet (35').

b. Rear - fifteen feet (15'), unless abutting a residential zone, then a twenty-five foot (25') setback with a ten foot (10') landscaped buffer is required for buildings up to thirty-five feet (35') in height. For portions of a building greater than thirty-five feet (35') in height, the building shall have a step-back of one foot (1') for each additional four feet (4') of height up to the maximum height of the district.

c. Side - zero feet (0'), unless abutting a residential zone, then a twenty-five foot (25') setback with a ten foot (10') landscaped buffer is required for buildings up to thirty-five feet (35') in height. For portions of a building greater than thirty-five feet (35') in height, the building shall have a step-back of one foot (1') for each additional four feet (4') of height up to the maximum height of the district.

d. Corner side - ten feet (10').

e. Trash containers and trash compactors - fifteen feet (15') from the property line when adjacent to land planned or zoned for a single-family residential use. All trash containers and trash compactors shall be screened from a public right-of-way by decorative wall or enclosure and shall be not less than two feet (2') above the height of the trash container or compactor.

f. Flag poles - twenty-five feet (25') from any property line, with a maximum height of fifty feet (50'). Pole heights greater than fifty feet (50') may be adopted by conditional use permit.

E. Off-street parking. Off-street parking shall be provided as set forth in Sec. 15-7-27 of this Code. Parking will be permitted in setbacks unless otherwise restricted in an adopted plan.

F. Landscaping. Landscaping, walls, fences and site lighting shall be the same as ED-1.

G. Buffer Zone. Same as ED-1 and ED-2.

H. Exterior material. A minimum of eighty percent (80%) of the area of exterior walls shall be stucco in earth-toned colors or adopted facade material painted in earth-toned colors.

I. Signs. Signs shall be in accordance with Sec 15-7-25.

J. Other Similar Establishments. The P & Z Board is authorized to grant a permit for a commercial use not included in subparagraph B of this section if the P & Z Board finds that the proposed use is not offensive or incompatible with the character of the MD-1 District. The P & Z Board shall hold a public hearing pursuant to the procedures set forth in Sec. 15-7-32 of this Code if a permit is sought for a use not included in Subsection B of this Section.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-17 WD-1: Rural Lands/Wildlife District

A. Purpose. This zone limits developmental density in areas which are now largely in agricultural or open space uses, where development may be difficult and/or undesirable and public water and sewer services cannot be provided efficiently. Since the rural character of these lands

depends on open space and natural areas, protection of these features should be considered when evaluating proposed conditional uses.

This district provides areas for animals to move freely between conserved lands, undeveloped lands, contiguous open space and forest habitat, and other important habitat, land features, and natural communities within and beyond the boundaries of the Pueblo in order to meet their necessary survival requirements. Pursuant to Subsection B hereinbelow, there are no permissive uses in this zone, only conditional uses. Subsection C herein provides for conditional uses only and the inclusion of a use in Subsection C does not automatically entitle an applicant to receive a permit for such a use. Notwithstanding Subsection C below, the Board is authorized to deny a permit for any building, structure or land use which has been declared a nuisance by Tribal statute or ordinance or under federal law. The P & Z Board is also authorized to deny a permit, if based upon the plans submitted by an applicant, the P & Z Board finds that the proposed use is likely to pose a danger, or to create problems due to the presence of hazardous materials, or the emission of noise, smoke, dust, noxious liquids or fumes to the detriment of other Enterprise District permittees or land uses outside of the Enterprise District.

B. Permissive Uses. There are no permissive uses allowed in the WD-1 District.

C. Conditional Uses. The following uses are allowed in the WD-1 District only upon the approval of a site development and/or subdivision plan by the P & Z Board:

1. Agriculture;
2. Open space;
3. Wildlife preserves;
4. Wilderness areas;
5. Single family dwelling, including use of mobile home;
6. Accessory uses and structures;
7. Storage of accessory vehicles; and
8. Parking incidental to the above uses.

D. Dimensional Requirements Dwelling Units.

1. Minimum lot size shall be one (1) acre.
2. Minimum lot width shall be one hundred feet (100').
3. Maximum roofed area shall be sixty percent (60%) of the lot area,
4. Maximum Lot Coverage shall be eighty-five percent (85%) of the lot area.
5. Minimum setbacks shall be as follows:

- a. Front yard; fifty feet (50').
- b. Side yards; ten feet (10').
- c. Rear yard; twenty feet (20').

6. Building design standards shall be as follows:

- a. Maximum building height shall be thirty-six feet (36') except for flagpoles, antennas, chimneys and similar building accessories, which are exempted from this height limitation; and
 - b. A minimum of eighty percent (90%) of the area of exterior walls shall be stucco in earth-toned colors or adopted facade material painted in earth-toned colors.
7. Off-street parking and loading shall be provided in accordance with Sec. 15-7-27 of this Code.
8. Signs shall be in accordance with Sec. 15-7-25 of this Code.

E. Supplemental Development Standards Applicable to WD-1 Districts (in addition to the General).

1. Development within any WD-1 District should be close to roads and/or developed areas to allow sufficient wildlife corridors through the area.
2. A buffer area of adequate size from the edge of development shall be established to ensure the protection of critical wildlife habitats and travel corridors.
3. All development within any WD-1 District shall receive written review from the Santa Ana Natural Resources Department regarding the impact of the proposed development on the wildlife corridor and significant wildlife habitats when requested by the P & Z Board for Site Development Plan and Subdivision applications.

F. Other Similar Establishments. The P & Z Board is authorized to grant a permit for other uses not included in Subsection C of this Section if the Board finds that the proposed use is not offensive or incompatible with the character of the WD-1 District. The Board shall hold a public hearing pursuant to the procedures set forth in Sec. 15-7-32(B) of this Ordinance if a permit is sought for a use not included in Subsection C of this Section.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-18 RA-1: Residential and Agricultural District

A. Purpose. This zone provides sites for low density houses and uses incidental thereto, including agriculture. Clustering of houses is permitted in existing residential areas. Housing in this zone currently exists or has planned approval of the P & Z Board.

B. Permissive Uses. The following permissive uses are allowed within the RA-1 District:

1. One single-family dwelling unit per lot;

2. A temporary mobile home for use a primary dwelling unit for a period not to exceed one (1) year;

3. Orchards, vegetables and field crops, nurseries and gardens;

4. Raising crops;

5. Raising and management of livestock or fowl, provided that all areas devoted to livestock and fowl shall be maintained in such a manner that:

a. Concentration of breeding of insects and rodents which are detrimental to human habitation is discouraged.

b. Livestock and fowl excrement shall be properly disposed of and shall not be allowed to accumulate in amounts that cause unreasonable noxious odors.

c. Drainage of livestock waste shall be contained on-site and controlled to avoid pollution of irrigation ditches, ground water, and drains and surrounding property.

6. Storage of accessory vehicles (agricultural equipment, trailers, tractors) owned by the on-site resident for personal use;

7. Parking incidental to the above uses; and

8. Church(s).

C. Conditional Uses. The following uses are allowed in the RA-1 District only upon the approval of a site development and / or subdivision plan by the P & Z Board:

1. Second dwelling units; and

2. Home occupations related to permissive agricultural uses (sale of livestock) and/or crops raised on the premises.

D. Dimensional Requirements Dwelling Units.

1. Minimum lot size shall be one quarter (1/4) acre.

2. Minimum lot width shall be one hundred feet by one hundred feet (100' x 100') for subdivision and fifty feet by fifty feet (50' x 50') for infill home.

3. Maximum roofed area shall be sixty percent (60%) of the lot area.

4. Maximum Lot Coverage shall be eighty-five percent (85%) of the lot area.

5. Minimum setbacks shall be as follows:

a. Front yard; twenty feet (20').

b. Side yards; fifteen feet (15').

c. Rear yard; twenty-five feet (25').

6. Building design standards shall be as follows:

a. Maximum building height shall be twenty-six feet (26') except for flagpoles, antennas, chimneys and similar building accessories, which are exempted from this height limitation; and

b. A minimum of eighty percent (80%) of the area of exterior walls shall be stucco in earth-toned colors or adopted façade material painted in earth-toned colors.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-19 HD-1: Historical District

A. Purpose. This zone preserves and promotes the cultural, educational and general welfare of the public through the preservation and protection of the traditional architectural character of the historic Old Santa Ana Pueblo. Clustering of houses is permitted.

B. Special Approval Required. Any construction, modification, addition, alteration, moving, or destruction that would affect the exterior appearance of any structure, building or significant object or artifact within this zone will require review and approval by the P & Z Board.

C. Permissive Uses. Any of the following permissive uses are allowed in the HD-1 District:

1. One single family dwelling unit per lot;
2. Raising crops;
3. Equestrian stables;
4. Church(s);
5. Society houses; and
6. Kivas.

D. Conditional Uses. The following uses are allowed in the I-ID-1 District only upon the approval of a site development and/or subdivision plan by the P & Z Board:

1. Temporary parking areas (designated at special events);
2. Stables and livestock holding areas; and
3. Municipal buildings.

E. Dimensional Requirements for Dwelling Units.

1. Minimum lot size shall be fifty feet by fifty feet (50' x 50).

2. Minimum lot width shall be fifty feet (50').
3. Maximum roofed area shall be sixty percent (60%) of the lot area,
4. Maximum Lot Coverage shall be eighty-five percent (85%) of the lot area.

F. Setbacks. Minimum setbacks shall be as follows:

1. Front yard; twenty-five feet (25'),
2. Side yards; twenty feet (20'), and zero feet (0') one side.
3. Rear yard; twenty-five feet (25').

G. Building design standards.

1. Maximum building height shall be twenty-six feet (26') except for flagpoles, antennas, chimneys and similar building accessories, which are exempted from this height limitation.
2. A minimum of one hundred percent (100%) of the area of exterior walls shall be stucco in earth-toned colors or adopted facade material painted in earth-toned colors.

Enacted by Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-20 R-1: Single Family Residential District

A. Purpose. This district permits a low density of population in which the primary land use is a single-family dwelling unit.

B. Permissive Uses. Any of the following permissive uses are allowed within the R-1 Zone:

1. One single-family dwelling unit per lot; provided such dwelling unit meets the following design standards:

a. All dwelling units shall be permanently affixed to a permanent foundation. No dwelling unit shall be temporary in nature;

b. Any garage either attached or detached shall have an external appearance and finish-treatment similar to and consistent with the dwelling unit and shall be completed and issued a certificate of occupancy no later than 12 months after occupation of the dwelling unit; and

c. Each dwelling unit shall have a roof meeting one of the following minimum criteria;

i. A pitched roof with a minimum slope of two and one-half inches (1/2") in every twelve inches (12") and no less than six inch (6") overhangs; or

ii. A flat roof with parapets at least six inches (6") in height above the finished roof.

d. Each single-family dwelling unit shall have exterior siding and roofing

which, in color, materials and appearance, is comparable to the predominant materials in use on surrounding dwelling units, or if there is no predominance, is similar to the exterior siding and roofing material commonly in use on residential dwelling units in the community as a whole.

e. All dwelling units must face the address street or create a presence on the address street. Street presence can be created by including elements such as windows, site walls, gates, portals, courtyards and landscaping in the architectural design or site plan.

f. All front steps necessary for access due to a difference in grade between the front door and/or the floor of the dwelling unit and finished grade shall be permanently installed and shall be constructed of stone, concrete or masonry materials.

g. All utility service and distribution lines shall be placed underground. All liquid propane installations shall be either behind the primary structure from the address street or placed underground.

h. Sites shall be prepared in such a manner that positive drainage of surface water is maintained and directed away from the dwelling unit as per state regulations.

i. With the exception of Subsection (B)(1)(b) of this Section, all requirements of this Subsection shall be completed within a reasonable time after occupation of the dwelling unit not to exceed one hundred twenty (120) days;

2. Accessory buildings or structures, including accessory dwelling units but not to include structures for livestock or fowl; provided such accessory buildings or structures meet the following design standards:

a. Accessory buildings and structures shall not exceed the height of the primary structure or twenty-four feet (24'), whichever is greater;

b. The exterior of any accessory building and structure encompassing more than two hundred fifty (250) square feet shall be constructed of materials similar in color and appearance to those used in the primary structure or has a facade similar to that of the primary structure. Accessory structures greater than six hundred (600) square feet shall be constructed of the same materials or have the same facade as the primary structure;

c. Accessory buildings shall not exceed seventy-five percent (75%) of the size of the primary house or fifteen percent (15%) of the lot area, whichever is greater;

d. By definition, an accessory building may not be constructed without the existence of the primary structure; the dwelling unit;

3. Accessory living space;

4. Noncommercial gardens, swimming pools, tennis courts;

5. Parks, open spaces, recreational parks, and public facilities;

6. Home occupations;

7. Construction trailers for a period not to exceed twenty-one (21) days before construction plus the entire period of construction up to twelve (12) months and no more than fourteen (14) days after construction has finished; provided, that the use of the trailer is for assisting in the security of the construction site and facilitating the delivery of construction material, and that no sales are conducted from the construction trailer either before or after the site development is completed. If an extension is needed, application to and certification from the administration is necessary and may be granted for up to one hundred twenty (120) days. Construction trailers will be allowed only where five (5) or more contiguous lots are being developed at the same time, by an individual developer, and the trailer is not to be used for residence;

8. Temporary, emergency, construction, and repair residences for a period not to exceed twenty-one (21) days before construction, plus the entire period of construction up to one hundred eighty (180) days, and not later than thirty (30) days after construction has finished for a total of two hundred thirty-one (231) consecutive days maximum. if an extension is needed, application to the administration is necessary and may be granted for up to one hundred twenty (120) days. The dwelling shall be connected to utilities or self-contained and shall not be located in the front setback;

9. Family child care facility with a capacity of six (6) or less;

10. Second kitchen (a second kitchen is permitted and may be located within the primary residence or accessory dwelling unit, but not both);

11. Community residential care facility up to ten (10) persons, including any staff residents providing all city regulations are met;

12. Churches and other places of worship, Sunday school buildings, and parish houses; and

13. Amateur radio antenna.

C. Conditional uses. The following uses are allowed in the R-1 Zone only upon the approval of a site development and/or subdivision plan by the P & Z Board:

1. Hospitals and private institutions of an educational nature;

2. Family child care facility with a capacity of seven (7) or more; and

3. Hobby breeders or animal foster care providers, provided the lot has an area appropriate to the type and size of the animals being bred.

D. Dimensional Requirements.

1. Every lot must have an area of not less than seven thousand (7,000) square feet and a width of not less than sixty feet (60') along the front yard setback line. This minimum lot area

assumes that the lot is serviced by community utilities. Won-site water and/or sewer are used, then lot sizes required by the New Mexico Environmental Improvement Division shall apply,

2. Setbacks.

- a. Front - twenty feet (20'); garage - twenty feet (20'); side-loaded garage - fifteen feet (15').
- b. Rear fifteen feet (15'); alley-loaded garage - zero feet (0').
- c. Side - five feet (5'); zero (0) lot line setbacks are allowed on one side with a ten foot (10') setback on the opposite side.
- d. Corner side - ten feet (10').
- e. Setbacks shall not apply to storage sheds of one hundred twenty (120) square feet or less; provided, that the structure is located behind the required front setback line and on a corner lot, is not located in a side yard that is visible from the street.
- f. Free-standing wind energy units - two-to-one (2:1) height to setback ratio with a forty foot (40') maximum height.
- g. Sports courts and pools - five feet (5') on side and rear lot lines. Corner side setback of ten feet (10') except for pools.
- h. Flag poles - ten feet (10') from any property line.

3. Projections into setback area. The following structures are permitted to project into the established setback area for the lot or parcel as indicated:

- a. Patio covers. A patio cover may encroach to within five feet (5') from the side property lines and five feet (5') from the rear property line.

- i. The setback shall be measured from the supporting posts;

however, the overhang of a patio cover may not extend closer than three feet (3') from a property line.

- ii. Any patio cover extending into the established setback area for the lot or parcel may not be permanently enclosed with any materials, including wood, metal, canvas, plastic, glass or any other screening material. A permanently enclosed patio must conform to the setback standards applicable to the main dwelling. The height of the patio cover shall not exceed twelve feet (12').

- b. Architectural features. Bay windows, fireplaces, roof eaves, chimneys and similar architectural features may encroach no more than two feet into any required setback area, provided the encroachments:

- i. Remain at least three feet (3') from the property line; and

ii. Do not increase the living space of the structure at the floor level

c. Carports may be located in the front yard; provided, that the carport shall not be located closer than ten feet (10') from the front property line and, the carport is not enclosed greater than fifty percent (50%), and the carport may be located in the side yard up to the side property line; provided, that no carport overhangs or drains onto the adjacent property.

d. Lots adjacent to open space. On any lot which adjoins a golf course, park area, common open space or similar open space, open balconies or open decks may extend up to ten feet (10') into the required setback from the dwelling and toward the open space; provided, however, that the projection extends no closer than Five feet (5') from the property line.

e. Unenclosed decks with floor surfaces no more than thirty inches (30") above grade and unenclosed porches and balconies may extend into the rear yard a distance of up to one-half (1/2) of the required rear yard.

f. Fireproof outside stairways projecting into a minimum yard not more than three and one-half feet (3W) may be permitted where same are placed so as to not obstruct light and ventilation.

g. Mechanical equipment Mechanical equipment such as air-conditioning units, pool filtering and heating equipment, water softeners, and similar mechanical equipment may occupy the required rear and side yard setback areas if such mechanical equipment does not restrict the required access through such setback areas. If screening is provided, screening should be designed to allow for access to utility facilities. All screening and vegetation surrounding ground-mounted transformers and utility pads are to allow ten feet (10') of clearance in front of the equipment door and five feet (5') of clearance on the remaining three (3) sides for safe operation, maintenance and repair purposes.

4. Building envelopes. If a building envelope is included at the time of plat, appropriate placement of the building envelope within the setback area will be allowed. Envelopes may be placed within the setback area for the following reasons:

- a. To preserve open space;
- b. To preserve native plant material on the site;
- c. To preserve natural drainage courses; and
- d. preserve views of nearby lots.

E. Off-street parking. All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question. Further, off street parking shall be provided as set forth in Sec. 15-7-25 of this Code.

F. Height restrictions.

1. No building or structure shall exceed thirty-two feet (32') in height except for others permitted herein.
2. No accessory building shall exceed the height of the primary structure or twenty-four feet (24'), whichever is greater. Height is measured from finished floor elevation.
3. Public and semi-public buildings such as schools, churches, or hospitals shall not exceed fifty feet (50') in height, provided there is an additional step-back of one foot for every four feet (4') of height above thirty-two feet (32').
4. Antennas, chimneys, flues, vents, or similar structures, shall not exceed over ten feet (10') above the specified maximum height limit.
5. Water towers and mechanical equipment shall not extend over five feet (5') above the specified maximum height limit.
6. Church spires, bell towers and like architectural projections, may extend over the maximum height limit.
7. Satellite dishes may not exceed the permissible height of the building they are attached to, and may not have a dish diameter that exceeds thirty-six inches (36").
8. Amateur radio antenna to a height of sixty-five feet (65') from grade is permitted; anything above sixty-five feet (65') from grade may be allowed by the approval of a conditional use permit.
9. Flag poles shall not exceed thirty-two feet (32') in height.

G. Landscaping. All single-family residential development shall include the installation and maintenance of landscaping in the front yard, and when an unscreened side yard abuts a street right-of-way, in that side yard as well. A minimum of two (2) trees, each of a minimum one and one-half inches (1 ½) in caliper (deciduous trees) or eight foot (8') high conifers (evergreen trees) and three (3) five-gallon shrubs, or the equivalent thereof in accordance with a written plan submitted to and adopted by the Director of Development Services, or that person's official designee, shall be installed within a reasonable time after occupation of the dwelling unit not to exceed one hundred twenty (120) days. The installation of cool season turf grass in residential front yards is prohibited. Cool season turf grass is permitted in side and rear yards but shall not exceed one thousand (1,000) square feet or twenty percent (20%) of the total lot area, whichever is less. Cool season turf grasses include but are not limited to the following species: *Poa pratensis* (Kentucky Bluegrass), *Festuca* spp. (Fescues), and *Lolium* spp. (Ryegrasses). Plant materials in front yards shall be limited to species that are not listed as high water use on the Pueblo plant list. Existing turf and other plants installed prior to October 1, 2016, are exempt from this regulation.

Sec. 15-7-21 R-2: Multi-Family Residential District

A. Purpose. This district allows a high density of population in which the principal use is multi-family dwelling units.

B. Permissive Uses. Multiple family dwelling units for sale or rent that are attached and allowed up to a density of fifty (50) dwellings per acre, and the same uses as those permitted in the R-1 District.

C. Conditional Uses. Same as those in the R-1 District.

D. Dimensional Requirements.

1. Area. Lots must have an area of not less than two thousand five hundred (2,500) square feet and a minimum lot width of thirty-five feet (35') along the front yard setback line.

2. Setbacks.

a. Front - ten feet (10'); garage - twenty feet (20'); side-loaded garage - fifteen feet (15').

b. Rear - fifteen feet (15'); alley-loaded garage - zero feet (0').

c. Side - five feet (5'); zero (0) lot line setbacks are allowed on one (1) side with a ten foot (10') setback on the opposite side.

d. Corner side - ten feet (10').

e. Free-standing wind energy units - two-to-one (2:1) height to setback ratio with a forty foot (40') maximum height.

f. Sports courts and pools - five feet (5') on side and rear lot lines. Corner side setback of ten feet (10') except for pools.

g. Flag poles - ten feet (10') from any property line.

3. Projections into the setback area are the same as the R-1 District.

E. Off-street parking. Off-street parking spaces must be provided as set forth in Sec. 15-7-25 of this Code. The same restrictions as stipulated in the R-1 District pertaining to parking of commercial vehicles apply.

F. Height restrictions. No building or structure shall exceed seventy-eight feet (78') or six (6) stories.

G. Landscaping.

1. Multi-family dwellings. All multi-family residential development shall include the installation and maintenance of landscaping throughout the site. A minimum of two (2) trees,

each of a minimum one and one-half inches (1 ½”) in caliper (deciduous trees) or eight feet (8’) high (evergreen trees), and three (3) five-gallon shrubs or the equivalent thereof per dwelling unit in accordance with a written plan submitted to and adopted by the Director of Development Services, or that person’s official designee, shall be installed within a reasonable time after occupation of the dwelling unit not to exceed one hundred twenty (120) days. Cool season turf grass shall be limited to areas designated for recreational use and shall be limited to a maximum of fifteen percent (15%) of the total lot area. Cool season turf grasses include but are not limited to the following species: *Poa pratensis* (Kentucky Bluegrass), *Festuca* spp. (Fescues), and *Lolium* spp. (Ryegrasses). Plant materials shall be limited to species that are not listed as high water use in the City of Rio Rancho plant list. Existing turf and other plants installed prior to October 1, 2016, are exempt from this regulation. Effective the date of the ordinance codified in this Article, homeowner association bylaws or new restrictive covenants shall not mandate a minimum amount of live grass.

2. Single-family dwellings. Same as R-1 District.

H. Usable Recreation Space. There shall be fifty (50) square feet of usable recreation space for each studio or one (1) bedroom dwelling unit, and one hundred (100) square feet for each two-plus (2+) bedroom dwelling unit to be reviewed and adopted by the P & Z Board.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-22 R-3: Mixed Residential District

A. Purpose. This district allows a moderate density of population in which the principal use is single-family attached or detached townhome or patio home dwelling units or for small-scale multi-family units.

B. Permissive Uses. Any of the following permissive uses are allowed within the R-3 District:

1. Same as those allowed in the R-1 District; design standards apply;
2. Single-family attached or detached dwelling units;
3. Boarding and lodging houses; and
4. Townhome, patio home, or similar development provided all Pueblo regulations are met.

C. Conditional Uses. The following uses are allowed in the R-3 District only upon the approval of a site development and/or subdivision plan by the P & Z Board.

1. Same as those allowed in the R-1 District;
2. Community residential care facility up to eighteen (18) persons, including any staff residents, providing all city regulations are met;
3. Senior transitional care facilities, senior living facility, and/or other similar facilities up to thirty-five (35) dwelling units per acre and up to fifty feet (50’) in height; and
4. Multifamily dwellings, provided there are not more than twenty-six (26) units per acre, with the site plan reviewed and adopted by the Tribal Council.

D. Area.

1. Where multi-family dwellings exist, every lot must have an area of not less than ten thousand (10,000) square feet and a width of not less than seventy feet (70') along the front yard setback line.
2. Where detached single-family dwellings exist, every lot must have an area of not less than three thousand (3,000) square feet with a minimum width of thirty-five feet (35') along the front yard setback line.
3. Where attached town-homes exist, the minimum lot size shall be one thousand two hundred (1,200) square feet with a minimum front width of twenty-eight feet (28') along the front yard setback line.

E. Setbacks.

1. Multi-family dwelling units.
 - a. Front - twenty feet (20').
 - b. Rear - fifteen feet (15').
 - c. Side - seven and one-half feet (7 1/2').
 - d. Corner side - ten feet (10').
2. Single-family detached dwelling units.
 - a. Front - fifteen feet (15'); garage - twenty feet (20'); side-loaded garage - fifteen feet (15').
 - b. Rear - five feet (5'); alley-loaded garage - zero feet (0').
 - c. Side - five feet (5'); zero (0) lot line setbacks are allowed on one side with a ten foot (10') setback on the opposite side.
 - d. Corner side - ten feet (10').
3. Single-family attached dwelling units.
 - a. Front - twenty feet (20'); garage - twenty feet (20').
 - b. Rear - zero feet (0'); alley-loaded garage - zero feet (0').
 - c. Side - zero feet (0').
 - d. Corner side - ten feet (10').

4. Setbacks shall not apply to storage sheds of one hundred twenty (120) square feet or less; provided, that the structure is located behind the required front setback line and on a corner lot, is not located in a side yard visible from the street.

5. Free-standing wind energy units - two-to-one [2:1] height to setback ratio with a forty foot (40') maximum height.

6. Flag poles - ten feet (10') from any property line.

7. Trash containers and trash compactors - fifteen feet (15') from the property line when adjacent to land planned or zoned for a single-family residential use.

8. Projections into the setback area are the same as the R-1 District.

F. Off-street Parking. Off-street parking spaces must be provided as set forth in Sec. 15-7-25 of this Code.

G. Freight Restrictions. Same as R-1 District; multifamily dwelling units: fifty feet (50').

H. Landscaping.

1. Multi-family dwellings. All multi-family residential development shall include the installation and maintenance of landscaping throughout the site. A minimum of two (2) trees, each of a minimum one and one-half inches (1 ½") in caliper (deciduous trees) or eight feet (8') high (evergreen trees), and three (3) five-gallon shrubs or the equivalent thereof per dwelling unit in accordance with a written plan submitted to and adopted by the Director of Development Services, or that person's official designee, shall be installed within a reasonable time after occupation of the dwelling unit not to exceed one hundred twenty (120) days. Cool season turf grass shall be limited to areas designated for recreational use and shall be limited to a maximum of fifteen percent (15%) of the total lot area. Cool season turf grasses include but are not limited to the following species: *Poa pratensis* (Kentucky Bluegrass), *Festuca* spp. (Fescues), and *Lolium* spp. (Ryegrasses). Existing turf and other plants installed prior to October 1, 2016, are exempt from this regulation.

2. Single-family dwellings. Same as R-1 District.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-23 OS-1: Open Space District

A. Purpose. This district allows both public and private lands to serve as areas providing both active and passive recreational opportunities in either a developed (modified) or natural setting; to protect, preserve and/or restore natural resources and open spaces such as areas of undisturbed native vegetation, arroyos and major land features when development within these areas would be detrimental to the health, safety and general welfare of city residents; and to establish buffer areas that are aimed at mitigating issues involving potentially incompatible land uses.

B. Permissive Uses. Any of the following permissive uses are allowed within the OS-1 District:

1. Natural areas designated for outdoor education, low-impact recreation, wildlife/habitat enhancement and conservation, natural and cultural resource preservation;
2. Land undergoing restoration;
3. Regional preserves;
4. Lakes, waterways, flood water storage areas, and other public facilities for handling flood water, all designed in such a way as to be considered a visual and/or physical amenity in the community;
5. Land that serves as a buffer, protecting the public from natural hazards;
6. Structures and facilities incidental to the above uses; provided, that such incidental buildings do not cover more than five percent of the ground area;
7. Amenities and improvements supporting the above uses including drinking water fountains and spigots, trash and dog waste receptacles, tables and benches, bicycle racks, and regulatory and interpretive signs; and
8. Unpaved service roads, permeable parking lots with twenty-five (25) spaces or less, fencing six feet (6') in height or less, trails and trail corridors, and public utilities necessary for the protection, development and use of the open space area.

C. Conditional Uses. The following uses are allowed in the OS-1 District only upon the approval of a site development and/or subdivision plan by the P & Z Board:

1. Public utilities;
2. Roads other than unimproved service roads;
3. Drainage structures other than those necessary for resource protection;
4. Parks;
5. Campgrounds;
6. Visitor center; and
7. Botanical garden, arboretum, garden open to the public.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-24 SU: Special Use District

A. Purpose. This zoning district is suitable for property which is special because of its potential effect on surrounding property, or for other reasons in which the appropriateness is partially or entirely dependent on the character of the site. A special use zoning designation is also appropriately used to:

1. To restrict uses otherwise permitted in an underlying zoning district;
2. To allow a combination of uses not otherwise permitted in an underlying district;
3. To establish a singular land use;
4. To establish requirements or conditions that are unique to the property; and/or
5. To establish requirements for height, setbacks, width, parking, landscaping, signage or other provisions that are unique to the property.

B. An application for a change to SU zoning must state the proposed land use(s).

C. All SU zoned property must have a site plan adopted by the Tribal Council. The site plan may accompany the application for a change in zoning designation or may be submitted for approval at a later date. Approval of the site plan must be obtained prior to any development of the property. The site plan at a minimum shall contain the following information:

1. Scale and north arrow;
2. Lot boundaries and easements;
3. Existing and proposed utilities;
4. Existing and proposed rights-of-way;
5. Proposed structures with uses, dimensions and setbacks;
6. Proposed ingress, egress, parking and circulation;
7. Landscaping and landscape buffers;
8. Elevations;
9. Adjacent property characteristics; and
10. Preliminary drainage plan.

D. The P & Z Board may approve minor changes to an adopted site plan if the change is consistent with the use and other written requirements and/or conditions of approval, if the buildings are of the same general configuration, if the total square footage is not greater than ten percent (10%) than the adopted plan, the site circulation is similar in its effect on adjacent property or streets, and the approving official finds that neither the city nor any person will be substantially aggrieved by the altered site plan. Notice of the proposed change shall be mailed to owners of adjacent property and to associations entitled to notice of the change. Substantial changes to an adopted site plan must be adopted by the Tribal Council.

Sec. 15-7-25 Signs and Advertising

A. Purpose and Application.

1. Signs constitute a separate and distinct use of the premises upon which they are placed and affect the use of adjacent roads, streets, walkways, and other properties. The provisions of this Article are made to establish reasonable and objective regulations for all signs which are visible to the public, in order to protect the general public health, safety, welfare, convenience and aesthetics. This Article is also intended to serve the public's need to be given helpful directions, and to be informed of available products, businesses, and services. The intent of the Pueblo is to reasonably accommodate competing interests of the public and of individuals. All signs in the Santa Ana Pueblo shall be subject to this Article except for those signs deemed exempt.

2. A sign may be erected, placed, established, painted, created or maintained in the Pueblo only in conformance with the standards, procedures, exemptions and other requirements of this Article.

3. The effect of this Article as more specifically set forth herein is:

a. To establish a permit system to allow a variety of types of signs in commercial and district zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Article;

b. To allow certain signs that are unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this Article;

c. To prohibit all signs not expressly permitted by this Article; and

d. To provide for the enforcement of the provisions of this Article.

B. General Requirements.

1. No permanent or temporary sign shall be erected without a building permit.

2. Setback and height requirements apply to all signs.

3. Minimum standards for the design of signs shall be as follows:

a. For double-faced signs, the allowable area, as set forth in Paragraph C of this Sec. 15-7-24 (C), may be used on both sides.

b. For freestanding signs, structural supports shall not be included in the calculation of allowable area, as set forth in Paragraph C of this Sec. 15-7-24, unless the supports are designed to convey specific information. The area of the structural supports shall not exceed one hundred percent (100%) of the allowable surface area. An area equal to the sign shall be landscaped at the base of the sign with a minimum of one (1) gallon shrub with a mature height of three feet (3') per ten (10) square feet of sign area.

c. For roof signs, all bracing shall be screened from public view.

d. Wall-mounted signs shall not project more than twelve inches (12") from the wall surface and shall not be larger than twenty percent (20%) of the wall on which they are mounted.

e. Illuminations: Sign illumination shall not flash, blink, vary in intensity, revolve or otherwise appear in motion. Sign illumination shall be indirect with the source of the light concealed from direct view.

4. Safety:

a. No signs shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire exit. No sign of any kind shall be attached to a standpipe or fire escape.

b. No sign or other advertising structure as regulated by this code shall be erected along any streets in such a manner as to obstruct free and clear vision and create a traffic hazard.

c. Signs shall not be located within less than six feet (6') horizontal not twelve feet (12') vertical clearance from overhead electric conductors.

d. No sign shall have movable parts or audible devices.

e. Sight triangle: There shall be no free standing sign more than three feet (3') in height above street curb level within the clear sight triangle, measured thirty (30') feet in both directions on the property line from the corner, or in the clear sight triangle for primary entry or exit of a commercial property.

f. Placement of signs that cause unsafe sight distances for vehicles entering or exiting a premises shall not be permitted.

g. No sign shall be placed in a public right-of-way.

h. No sign shall be attached to any utility pole.

C. Requirements According to Zoning District.

1. For signs located on parcels abutting the rights-of-way of US Highway 550 the allowable areas and heights may be increased by fifty percent (50%) over the maximum stated for the zoning district in which the parcel is located.

2. For ED-1 District, the requirements are as follows:

a. No portion of any sign shall be higher than twenty-five feet (25') above adjacent ground level.

b. No more than two (2) wall-mounted signs are allowed per business with the combined surface area not to exceed eighty (80) square feet.

c. Every parcel shall be allowed one freestanding sign with the size of the sign determined as follows:

i. For a parcel with one (1) business establishment the sign shall be limited to one hundred (100) square feet.

ii. For a parcel with more than one (1) business establishment the sign shall be limited to one hundred (100) square feet plus an additional twenty (20) square feet for each business establishment located on the parcel.

d. Every parcel shall be allowed an unlimited number of directional signs provided that the signs do not exceed ten (10) square feet each.

e. No portion of any sign shall be higher than twenty feet (20') above adjacent ground level.

3. For ED-2 District, the requirements are as follows:

a. No portion of any sign shall be higher than twenty-five feet (25') above adjacent ground level.

b. No more than two (2) wall-mounted signs are allowed per business with the combined surface area not to exceed eighty (80) square feet.

c. Every parcel shall be allowed one freestanding sign with the size of the sign determined as follows:

i. For a parcel with one business establishment the sign shall be limited to one hundred (100) square feet.

ii. For a parcel with more than one business establishment the sign shall be limited to one hundred (100) square feet plus an additional twenty (20) square feet for each business establishment located on the parcel.

d. Every parcel shall be allowed an unlimited number of directional signs provided that the signs do not exceed ten (10) square feet each.

4. For R-1, R-2 and R-3 Districts, the requirements are as follows:

a. No nameplate shall have a sign area in excess of four inches (4") by sixteen inches (16").

b. No real estate and/or rider sign shall have a sign area in excess of nine (9) square feet. No more than two (2) such signs shall be placed on any lot.

Sec. 15-7-26 Identification

A. All buildings or houses other than accessory buildings shall display identification numbers.

B. The P & Z Board shall record designated street numbers on the plan review application of new construction, and shall furnish building numbers of all buildings needed.

C. Numbers shall be affixed on buildings the last day of the first month the building is occupied.

D. Street numbers shall be as designated by the P & Z Board.

E. All numbers other than those designated shall be removed.

F. The numbers shall be clearly visible from the street and each figure of a house or building number shall be a material which will withstand the natural elements.

G. It shall be the responsibility of the building owner to maintain numbers of houses and/or buildings in good as well as legible condition or design.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-27 Off-Street Parking and Loading

A. General. At the time of construction, reconstruction or enlargement of a structure or at the time a use is change in any zone district, off-street automobile parking shall be provided on every lot as follows, unless greater requirements are otherwise established. In cases where sufficient parking spaces can be reasonably provided on the same lot, the P & Z Board shall consider on a case-by-case basis the use of land outside the lot for off-street parking. Off-street parking shall be provided with vehicular access to a street or alley and shall be equal in number to at least the minimum requirements set forth below.

<u>Use Classification</u>	<u>Parking Space Requirement</u>
1. Commercial establishments permitted in the ED-1 and ED-Z Zone.	One space for each 200 sq. ft. of total gross leasable floor area, unless greater requirements are otherwise established below for a specific use.
2. Hotels and motels.	One space per 3 guest rooms plus one space per two employees.
3. Places of public assembly including public buildings and private clubs.	One space for each four seats, or eight feet of bench seat, provided for patron use, plus one space for each 100 sq. ft. of floor area used for assembly but not containing fixed seats.
4. Gasoline service station.	Two spaces for each gas pump.

5. School, preschool or nursery	One and one half space per every faculty or staff member.
6. Retail store	One space per 300 square feet of floor area designated for retail sales.
7. Service or repair shop	One space per 500 square feet of floor area.
8. Office, professional, and public buildings	One space per 250 square feet of floor area.
9. Restaurant, bar	One space per each 4 seats or one per 100 square feet of floor area whichever is greater.
10. Hospital	One space per two beds, plus one space per staff member.

B. Design Standards for Parking Lots.

1. All parking spaces required by this Section shall be of a minimum area of one hundred eighty (180) square feet and shall not be less than nine feet (9') in width by twenty feet (20') in length.

2. Parking spaces along the outer boundaries of a parking lot shall be contained by a bumper rail or by a curb.

3. Except for parking in connection with a dwelling, parking and loading areas adjacent to or within a residential zone shall be designed to minimize disturbance to residents by the construction between the uses of a sign-obscuring fence or buffer.

4. Areas used for parking for more than three (3) vehicles shall have durable surfaces adequately maintained.

5. Perimeter Landscaping. Perimeter landscaping and/or screening walls or fences are required along front, side and rear property lines where parking lots with more than ten (10) parking spaces are located within twenty feet (20') of the property line. There shall be no exceptions to this Subsection.

a. Front yard landscaping shall be a minimum of ten feet (10') wide and shall, at a minimum, consist of a compact hedge of five (5) gallon plants having a mature height of at least three feet (3') planted at a density of at least one (1) plant for every twenty (20) square feet. All landscaping shall be irrigated by permanently installed, automatically controlled irrigation. Alternately, an earth-toned stucco wall with a minimum height of three feet (3') may be built within ten feet (10') of the property line.

b. Side and rear landscaping shall be a minimum of five feet (5') wide and shall, at a minimum, consist of a compact hedge of five (5) gallon plants having a mature height of at least three feet (3') planted at a density of at least one plant for every twenty (20) square feet. Alternately, an earth-toned stucco wall with a minimum height of three feet (3') may be built within five feet (5') of the property line. Alternately, an opaque, earth-toned fence with a minimum height of three feet (3') may be built within five feet (5') of the property line. Alternately, an opaque, earth-toned fence with a minimum height of three feet (3') may be built in conjunction with a three foot

(3') wide planting strip outside of the fence consisting of, at a minimum, low growing shrubs, vines and/or ground cover which, at maturity, will conceal bare earth. All landscaping shall be irrigated by permanently installed, automatically controlled irrigation.

C. Interior Landscaping. Interior landscaping is required for parking lots with more than forty (40) parking spaces. Interior landscaping shall cover a minimum area equal to one (1) parking space for every twenty (20) parking spaces, shall be evenly distributed throughout the parking lot and shall consist of a minimum of one (1) deciduous tree and three (3) shrubs for every ten (10) parking spaces. Trees shall be a minimum of one and one-half inch (1 ½") caliper, six feet (6') tall at time of planting and have a mature height of not less than twenty (20) feet. Shrubs shall be five (5) gallon size and have a mature height of at least two feet (2'). All landscaping shall be irrigated by permanently installed, automatically controlled irrigation.

D. Site Lighting. All exterior lighting shall be directed towards the ground or buildings. Parking lot and other area lighting shall consist of LED or sodium vapor lamps installed in hooded fixtures which direct all illumination down and to the sides. No lighting shall be permitted which directs more than twenty-five percent (25%) of the illumination directly into the sky.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-28 Special Events

A. A special event is one that has a duration which is temporary in nature. A special event permit grants temporary zoning approval to allow for the facilitation of such an event while simultaneously minimizing the impact of the event on community members and to ensure public safety and the delivery of emergency medical services to the public.

B. Obtaining a special event permit for a public or private event taking place on either public or private property shall be required only if the event and associated activities do one of the following:

1. Prohibits vehicular or pedestrian access and use of public streets, right-of-way or sidewalks;
2. Requires the issuance of one (1) or more permits, licenses, or inspections by any governmental entity for the event and/or event activities (i.e. business license, tent/canopy inspection, temporary food service permits, etc.).

C. Temporary signage for special events shall be allowed; however, all signs are subject to the regulations set forth in the Code.

D. Special events shall not exceed a maximum of fourteen (14) consecutive or nonconsecutive days in operation and no permit shall be granted by the Pueblo for a period greater than thirty (30) calendar days.

E. The special event permit fee is fifty dollars (\$50).

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-29 Adoption

The Pueblo hereby adopts the use of the current International Building Codes and the current building codes for the State of New Mexico, BIA and IHS codes.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-30 Title

Secitons 15-7-31 through 15-7-41 shall be known as the “Building Regulations,” and may be cited as such.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-31 Purpose

The purpose of the Building Regulations is to provide for the administrative review and approval of all plans for proposed new buildings and structures, additions to existing buildings commercial or public and structures, and renovations of existing buildings and structures within the zoning jurisdictions of the Pueblo, prior to issuance of a building permit, to insure compliance with the zoning regulations of the Pueblo.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-32 Application for Building Permit

A. Application required. No building may be undertaken on Tribal Land without a building permit as required by the Pueblo and without an application having been made for a zoning approval. Any person seeking to erect, construct, install, enlarge, alter, repair, move, improve or demolish a building or structure within any District shall submit an application for a building permit to the P & Z Board. **Any person submitting an application for a building permit within any Enterprise District shall submit such application in conformity with the requirements of Appendix A of this Code (Enterprise Zone Development Approval Process).** In addition to Appendix A, the P & Z Board may require other information as needed to be submitted in order to evaluate the application.

1. Change in building occupancy or use. This Section shall be applicable to any building or structure undergoing a change in use or occupancy, as defined in the Code.

2. Mechanical/Plumbing Permits. No Mechanical/plumbing system shall be installed, altered, repaired, replaced, or remodeled without first obtaining a separate mechanical/plumbing permit for each building or structure.

3. Electrical Permits. No electrical system shall be installed, altered, repaired, replaced, or remodeled without first obtaining a separate electrical permit for each building or structure.

B. Public Hearings. The P & Z Board may hold a public hearing on any Enterprise District building permit application by publishing a notice of a hearing at least ten (10) days prior to the hearing in a publication serving the residents of the Pueblo. The public hearing shall be held within thirty (30) days after submission of the permit application. The P & Z Board shall adopt rules governing the conduct of public hearings. The P & Z Board shall decide whether to grant or deny a building permit within fourteen (14) days after the application is submitted or within fourteen (14) days after the public hearing, if a hearing is held, except that this time limitation may be extended upon a finding of need by the P & Z Board.

C. Appeal to Tribal Council. The applicant or any tribal member of the Pueblo aggrieved by a decision of the P & Z Board on a building permit application may appeal to the Tribal Council by filing a notice of appeal specifying the grounds thereof within fourteen (14) days after the P & Z Board issues its decision. An appeal stays all proceedings in furtherance of the action appealed from. The Tribal Council shall hear the appeal at its next regularly scheduled meeting or at a special meeting held not more than thirty (30) days from the date of the appeal. Public notice of the appeal shall be given in the same manner as prescribed in Sec. 15-7-32(B) above and interested parties shall be notified of the hearing date, time and place. At the hearing, any party may appear in person or by agent. The Tribal Council shall decide the appeal within a reasonable time. The decision of the Tribal Council is final.

Enacted by Ordinance Number 96-O-01, adopted June 6, 1996; and, Amended by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-33 Compliance with Construction Standards

A. No part of Building Regulations shall relieve the applicant from compliance with all requirements of the New Mexico Uniform Building Code and International Building Codes (IBC).

1. International Building Codes (current edition adopted by the State of New Mexico), published by the International Conference of Building Officials, including the Generic Fire-resistive Assemblies listed in the Fire Resisted Design Manual (current edition adopted by the State of New Mexico), published by the Gypsum Association, as reference in Tables 43A, 438 and 43C; also reference Appendix Article 25, if adopted, of the Specified Uniform Building, including Appendix Articles U.B.C., Section 103 Appendix Article 51.; and additional reference to ANSI/ASME A17-1; (current edition adopted by the state) Safety Code for Elevators and Escalators; Appendix Sections 5109 and 5111 (1); Including any current BIA or HIS code requirements.

2. Uniform Building Standards (current edition adopted by the state), published by the International Conference of Building Officials, including Structural Welding Code, Reinforcing Steel AWS D14-78, U.B.C. Standard No. 27-16, published by American Welding Society, Inc.; and Standard for the Installation of Sprinkler Systems, NFPA 13-1980, published by the International Fire Protection Association (U.B.C.), Standard No. 38-1, as modified or amended in the Uniform Building Standards Code reference herein;

3. New Mexico Building Code (current edition);

4. International Mechanical Code (current edition adopted by the state);

5. New Mexico Mechanical Code (current edition);

6. International Plumbing Code (current edition adopted by the state);
7. New Mexico Plumbing Code (current edition);
8. National Electrical Code (current edition adopted by the state);
9. New Mexico Electrical Code (current edition);
10. Off-Site Conventionally Built Modular-Manufactured Unit Standards (current edition);
11. New Mexico Uniform Swimming Pool, Spa and Hot Tub Code (current edition adopted by the state);
12. International Energy Conservation Code (current edition adopted by the state);
13. International Fire Code (current edition adopted by the state); and
14. New Mexico Standard Specifications for Public Works Construction (current edition).

B. The above-referenced codes are hereby adopted as the minimal construction standards of the Pueblo for regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings of structures in the Pueblo, providing for issuance of permits and collection of fees therefore and each and all the regulations, provisions, conditions and terms of the International Building Code (current edition adopted by the state) and Uniform Building Code Standards (current edition adopted by the state), published by the International Conference of Building Officials, and the secondary publications referenced above, all of which are on file in the Pueblo Zoning P & Z Board, are hereby referred to, adopted and made part hereof, as if fully set out in these Building Regulations.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-34 Application; Jurisdiction

A. All plans of proposed new buildings, commercial or public and structures, additions to existing buildings and structures, and renovations of existing buildings and structures within the zoning jurisdictions the Pueblo shall be reviewed, prior to the issuance of a building permit, by the Pueblo Zoning P & Z Board, to check compliance of the proposed plan with the zoning requirements, soil erosion and flood control regulations of the Pueblo.

B. Modular buildings or structures moved into the zoning jurisdiction of the Pueblo Lands shall be subject to all Building Regulations.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-35 Plans; Approval and Changes

A. All plans submitted to the P & Z Board shall be accompanied by a completed zoning application.

B. Three sets of plans and specifications shall be submitted to P & Z Board. The P & Z Board may, within limitation of tribal and state laws require that plans and specifications be designed, prepared and sealed by a registered architect and/or engineer licensed by the state to practice as such, in which case their seal shall be affixed to each sheet of the drawings.

C. Two sets of the plans and specifications shall be stamped with the P & Z Board approval and shall be returned to the applicant for submission to the tribal administration for issuance of a building permit.

D. One set of plans and specifications stamped and dated shall be retained by the P & Z Board.

E. Plans and Specifications shall be drawn to scale upon substantial paper or generally accepted material and shall be of sufficient clarity to indicate the nature and extent of the work proposed. It must be shown in detail that the project will conform to the provisions of the Building Regulations and all applicable laws and ordinances.

F. Any specifications or general expression the “work shall be done in accordance with the International Building Code” or “to the satisfaction of the General Building Code” shall be deemed inadequate and incomplete.

G. Plans shall include a plot plan/site development plan showing the location of the proposed building and of every existing building on the property along with the measurements of distances between buildings and from streets and property lines for the purpose of determining compliance with the Building Regulations.

H. All commercial development projects shall include engineered site drainage plan and drainage study for developments with multiple lots.

I. All plans (residential and nonresidential, new construction and additions) for project sites which require septic systems or those involving a food service operation shall obtain tribal approval prior to submittal to the P & Z Board.

J. No changes or deviation affecting the building, structure or site improvements of any kind shall be made after the plans are adopted unless new and adequate information is submitted to and adopted by the P & Z Board.

Sec. 15-7-36 Appeals

A. Any person aggrieved by an interpretation, decision of action of the P & Z Board in the administration of the Building Regulations, may appeal the interpretations, decisions or actions to the Tribal Council by filing a written complaint, which shall contain the name and address of the appellant a brief statement of the interpretation, decision or action of the Zoning P & Z Board to be reviewed, the reason the interpretation, decision or action was incorrect, a concise statement of the grounds upon which the appellant relies to support his claim for relief, and what the correct determination of the appeal should be.

B. The Tribal Council shall consider the appeal at its next regularly scheduled meeting or at a special meeting, shall render its decision in writing and shall furnish the appellant with a duplicate copy within ten (10) calendar days from its meeting.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-37 Fees

Building permit and review fees, and all other related fees shall be as set from time to time by Pueblo ordinance or resolution.

Enacted by Resolution Number 16-R-39, and, Adopted August 9, 2016.

Sec. 15-7-38 Administration and Enforcement

A. Whenever any construction is being done contrary to the provisions of the Building Regulations, the P & Z Board may order the work stopped by notice in writing served on any person engaged in doing or causing the work to be done. The person so notified shall stop work until authorized by the Zoning P & Z Board to proceed with the work. The stop order shall be effective only to that portion of the construction being performed contrary to the provisions of the Building Regulations and does not preclude the continuation of construction not directly related to or affected by the alleged violation.

B. Whenever any structure is being used contrary to the provisions of the Building Regulations, the P & Z Board may order the use discontinued and the structure, or portion thereof, vacated, by written notice stating the violation, served on any person causing the use to be continued, the person shall discontinue the use within fifteen (15) days after receipt of the notice or make the structure, or portion thereof, comply with the requirements of the Building Regulations. If compliance with the notice is not adhered to, the P & Z Board shall take the appropriate legal action to terminate the use.

C. Any person aggrieved by the decision of the P & Z Board may appeal through the procedures set out in Sec. 15-7-36.

D. All inspections, other than those pertaining to the requirements of the Building Regulations, shall be conducted by the authorized Pueblo inspectors according to the requirements of the International Building Code and current building codes of the state.

Sec. 15-7-39 Penalties

A. Violation of any of the provisions of the Building Regulations shall be subject to an administrative civil penalty not to exceed ten thousand dollars (\$10,000), or, in the case of a continuing violation as determine by the P & Z Board, not more than two thousand dollars (\$2,000) for each day of the violation and shall be processed in accordance with the procedures set forth in this Code,

B. Each day that a violation of a provision of the Building Regulations exists constitutes a separate violation.

C. The penalties and remedies provided in the Building Regulations are not exclusive and are in addition to other penalties and remedies available under any tribal ordinance, statute or law.

D. Failure to obtain the necessary building, electrical, mechanical, plumbing or other secondary permits shall result in a double permit fee.

E. Failure to pay an administrative civil penalty imposed pursuant to the Building Regulations shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-40 Types of Construction not Requiring a Building Permit

The following types of construction are exempt from obtaining a building permit:

A. Movable cases, counters and partitions not more than six feet (6') in height;

B. Water tanks supported directly at grade if the capacity does not exceed five thousand (5,000) gallons and the ratio of height to diameter or width does not exceed two-to-one (2:1);

C. Platforms (decks, balconies, etc.), sidewalks and driveways not more than thirty inches (30") above grade and not over any basement or story below which are not part of an accessible route and not within public right-of-way;

D. Painting, papering, floor covering, and similar finish work;

E. Pre-fabricated swimming pools accessory to single family/duplex dwellings which are less than 24 inches deep, do not exceed five thousand (5,000) gallons and are installed entirely above ground;

F. Exterior replastering that does not require the application of exterior lath and any nonstructural architectural applications, i.e. columns, bump-outs, etc., used during the replastering process;

G. Fences or walls not over six feet (6') in height which comply with the following:

a. Private property to private property construction (not adjacent to a public right-of-way); and

b. Not a retaining wall (does not retain more than twenty-four inches (24") of soil).

H. One-story detached accessory buildings used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed one hundred twenty (120) square feet;

I. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, nor for the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valve, pipes, or fixtures; and

J. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas type systems.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

Sec. 15-7-41 Powers and Duties of the Building Official

A. The "Building Official" means a person charged with the responsibility for administration and enforcement of the Building Regulations set forth in this Code.

B. The Building Official is authorized to enforce all the provisions of this Code.

C. The Building Official shall have the power to render written and oral interpretations of this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations of rules and regulations shall be in conformance with the intent and purpose of the Code and other applicable law.

D. Whenever any work is being done contrary to the provisions of the Code or other pertinent laws, the Building Official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such persons shall stop such work until specifically authorized by the building official to proceed thereafter.

E. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalties as described the Building Regulations and other applicable law.

F. The Building Official or the Building Official's authorized deputy shall have the authority to disconnect fuel gas utility service and/or other energy supplies to buildings, structures, premises or equipment regulated by this Code when necessary to eliminate an immediate hazard to life or property. The Building Official shall, whenever possible, notify prior to taking such action the serving utility, the owner, and occupant of the building, structure or premises of the decision to disconnect, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time after making the disconnection.

Enacted by Resolution Number 16-R-39, adopted August 9, 2016.

APPENDIX A ENTERPRISE ZONE DEVELOPMENT APPROVAL PROCESS

Initial

- A. Informal Conference with chief planning officer
- B. Sketch plan
- C. Within 14 days of submission, chief planning officer to advise regarding meeting intent of development regulations

Preliminary Plat

- A. \$200.00 filing fee
- B. Application in duplicate
- C. Plat map (3 copies)
- D. Construction plans or preliminary construction plans (3 copies)
- E. Public hearing on application within 30 days of application
- F. Review by Commission within 14 days of application, with approval or disapproval recommendation
- G. Developer may appeal denial or conditional approval to Tribal Council within 14 days of Commission action

Design Review Committee Approval Process (ED-1 and ED-2 Zones only)

- A. Copy of Preliminary Plat Application (3 copies)
- B. Site Plan (3 copies)
- C. Landscaping Plan (3 copies]

D. Exterior Lighting Plan (3 copies)

E. Building elevations (3 copies]

F. Renderings of signage (3 copies)

Final Plat

A. \$200.00 filing fee

B. Application in duplicate

C. Final Plat map (3 copies)

D. Final Construction plans (3 copies)

E. Compliance in all respects with Preliminary Plat as adopted

DEVELOPMENT IMPROVEMENTS AGREEMENT

This agreement made this ____ day of _____, 20____, by and between the Pueblo of Santa Ana (hereinafter referred to as "Pueblo") and _____ (hereinafter referred to as "Developer") pursuant to the Pueblo of Santa Ana General Land Use Ordinance regarding Enterprise Districts.

WHEREAS, the Developer has submitted and the Tribal Council has adopted a preliminary plat describing the Development; and

WHEREAS, the Pueblo's General Land Use Ordinance requires the Developer to install and construct certain development improvements at no cost to the Pueblo; and

WHEREAS, the Pueblo requires the extension of an Agreement to construct said Development improvements, together with actual satisfactory construction or acceptable guarantees of construction as specified below, as a prerequisite to approval of a Final Plat of the Development; and

WHEREAS, The Developer must obtain Pueblo approval of construction plans, specifications and cost estimates for the improvements and upon Pueblo approval of such construction plans, specifications and cost estimates the Pueblo is prepared to issue the Developer a construction permit allowing the commencement of construction activity upon execution of this agreement and payment of all required fees, all as set forth and specified in Attachment "A" which is attached hereto and incorporated herein as if fully set forth in this agreement; and

WHEREAS, the Pueblo reserves the right to inspect or monitor the private inspection of the improvements during the course of their construction and accept said improvements upon their satisfactory completion, all as set forth and specified in Attachment "B," which is attached hereto and incorporated herein as if fully set forth in this Agreement; and

WHEREAS, the Developer financially guarantees the satisfactory completion of the infrastructure construction required herein and the payment of all labor and material costs and charges, all as set forth and specified in Attachment "C," which is attached hereto and incorporated herein as if fully set forth in this Agreement;

NOW, THEREFORE, in consideration of the above, the Pueblo and the Developer hereby agree as follows:

1. The Developer shall, on or before the ____ day of _____, 20____ complete to the satisfaction of the Pueblo the improvements required for the Development as set forth, specified and referred in Attachment "A" attached hereto. The improvements which the Developer shall satisfactorily complete within the time limitation stated above are described and identified as follows:

Type of Improvement Amount

Amount

The time limitation stated above may be extended upon recommendation of the Land Use Planning Commission, said recommendation being affirmed by the Tribal Council, for a period not to exceed one year if the Developer shows adequate reasons for said extension.

2. After execution of this Agreement, payment of all fees as specified in Attachment “A” attached hereto, and, if applicable, delivery of the financial guarantee specified in Attachment “C” attached hereto, the Developer shall be issued a Construction Permit by the Pueblo. The Developer shall advise the chief planning officer for the Pueblo or for its economic development entity in advance of the actual start of construction and arrange for all inspections required and specified in Attachment “B” attached hereto. The Developer shall permit the Pueblo or other participating agencies to make such tests and inspections during the construction of the improvements and upon completion of the improvements as are necessary or desirable.

3. Prior to final acceptance of the completed improvements by the Pueblo the Developer shall furnish to the chief planning officer all documentation of the completion of construction as set forth and specified in Attachment “A” attached hereto.

4. Until acceptance of the improvements by the Pueblo, the Developer shall be solely responsible for maintaining the premises being developed in a safe condition. The Developer agrees to defend, indemnify and hold harmless the Pueblo and its officers, agents and employees from and against injury or damage arising out of the design or construction of the improvements or by reason of any act or omission, or misconduct of the Developer, his agents, employees or the Engineer or Contractor or their agents or employees. The indemnity required hereunder shall not be limited by reason of the specifications of any particular insurance coverage in this Agreement.

5. The Developer shall procure or cause to be procured and maintain public liability insurance in the amount of not less than One Million Dollars (\$1,000,000.00) for accident, injuries or death to any member of the public caused by any condition of the lands of the Development or improvements therein or the construction activities thereon. The Developer shall maintain such insurance until acceptance of the improvements by the Pueblo. The Developer shall furnish the chief planning officer a certificate of said insurance prior to issuance of a Construction Permit for construction of the improvements.

6. At the time of acceptance of the completed improvements or any portion thereof by the Pueblo, the Developer shall furnish or cause to be furnished a bond in a form and with a surety satisfactory to the Pueblo to guarantee the completed project against defective materials and workmanship for a period of three (3) years following the date of acceptance by the Pueblo.

7. The Pueblo shall either perform or monitor the performance of inspections during the course of construction of the improvements and inspect the improvements upon their completion in a timely manner, all as set forth and specified in Attachment "8" attached hereto.

8. The Pueblo shall designated a Construction Engineer and/or inspector for this project.

9. The Pueblo shall make available at established reproduction costs for the use of the Developer or its agents all of its maps, records, laboratory tests, or other data pertinent to the work to be performed by the Developer or its agents pursuant to this Agreement.

10. The Commission shall issue a Certificate of Completion and Acceptance for the improvements upon final completion to the Pueblo's satisfaction of the improvements as described in the plans and specifications as set forth and specified in Attachment "A" attached hereto. However, the Land Use Planning Commission may recommend and the Tribal Council may issue a Certificate of Completion and Acceptance for a portion of the improvements in accordance with the conditions and procedures set forth in Attachment "C" attached hereto.

11. If the Developer has requested Final Plat approval by the Pueblo prior to the actual construction of the improvements, the Pueblo will approve the final Plat upon execution of this Agreement, payment of all fees specified in Attachment "A" attached hereto, delivery of the financial guarantee specified in attachment "C" attached hereto and full compliance with the Pueblo's General Land Use Ordinance.

12. This Agreement shall not be assigned except with the written consent of the parties hereto and the express written concurrence of any surety who has undertaken to guarantee the completion of the improvements. If so assigned, this Agreement shall extend to and be binding upon the successors and assigns of the parties hereto.

13. In the event of the sale, conveyance, or assignment of the Development or any portion thereof, the Pueblo will not release the Developer from its obligations under this agreement and will continue to hold the Developer responsible for all improvements until a successor in interest to the Developer has posted a suitable guarantee and entered into a Development Improvements Agreement with the Pueblo. At such time as acceptable security has been posted by the Developer's successor in interest and the Agreement executed, the Pueblo will release the guarantee.

14. Should there be a conflict between the terms and conditions of this Agreement (with Attachments "A," "B," and "C") and the terms and conditions of any other document referred to herein, the terms and conditions of this Agreement (with Attachments "A," "B," and "C") shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

DEVELOPER

PUEBLO OF SANTA ANA

Governor

ATTEST:

Secretary

STATE OF NEW MEXICO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____,
20____ by _____ of _____.

Notary Public

My Commission Expires:

ATTACHMENT "A"
TO
"DEVELOPMENT IMPROVEMENTS AGREEMENT"

EXECUTED BY AND BETWEEN _____ (DEVELOPER)
AND THE PUEBLO FO SANTA ANA (PUEBLO)
ON THE _____ DAY OF _____, 20____

1. COMMITMENT TO CONSTRUCT IMPROVEMENTS.

The Developer shall construct in a manner satisfactory of the Pueblo the improvements listed in Paragraph 1 of the Development Improvements Agreement and which are shown in greater detail on the Developer's proposed and adopted Development Improvements Constructed Plan, which was filed with the chief planning officer for the Pueblo or for its economic development entity and identified as _____.

2. DESIGN AND CONSTRUCTION METHODS.

As soon as reasonably practical after approval of the Developer's Preliminary Plat of the Development, the Developer shall submit to the chief planning officer for the Pueblo or for its economic development entity final construction plans, specifications, and cost estimates for the proposed Development improvements. At this time, the Developer shall pay all fees required under the Pueblo's General Land Use Ordinance and paragraph 4 of this Attachment.

The Developer has engaged _____ as Engineer(s) for the construction project, who are Registered Professional Engineers in the State of New Mexico. The Developer shall ensure that the Engineer(s), in such capacity, shall provide the following services prior to, during, and after construction of the improvements:

The Developer shall ensure that the Engineer(s) perform all of the above services in a satisfactory manner and submit to the chief planning officer any reports he might acquire.

The Developer has engaged _____ as Contractor(s), who is properly licensed in the State of New Mexico. The Developer shall ensure that the contractor(s), in such capacity, shall in a manner satisfactory to the Pueblo construct the improvements as shown on the Developer's proposed Development Improvements Plan, incorporating any change orders adopted by the chief planning officer, in compliance with pertinent contract documents, and all other applicable Pueblo ordinances, regulations, and policies. Construction surveying and testing shall be performed as set forth in Attachment "B" of the Development Improvements Agreement between the Developer and the Pueblo.

3. COMPLETION OF CONSTRUCTION

The Developer shall report the completion of construction in writing to the chief planning officer for the Pueblo or for its economic development entity. Upon receipt of the report, the chief

planning officer or his representative shall visually inspect the public improvements to verify completion of construction according to plan. Subsequent to verification, the Developer shall submit to the chief planning officer a “final acceptance package,” which shall consist of the following documents:

(a) “As-built” drawings of reproducible quality, depicting all construction of the development improvements as actually accomplished in the field and certified by a New Mexico Registered Professional Engineer or Land Surveyor as appropriate.

(b) A list of quantities of contract items in place, using the bid items in the contract documents. The list shall be divided into the following categories as applicable:

- (1) Sanitary sewer items and quantities;
- (2) Water service items and quantities;
- (3) Street paving quantities;
- (4) Street curb and gutter quantities; and
- (5) Drainage improvements and quantities.

The Pueblo shall concurrently provide a written certification from the chief planning officer that the construction has been performed in substantial compliance with the Contract Documents and with the adopted final plans and specifications for development improvements. If the Pueblo is acting as contractor for all or a portion of the improvements constructed pursuant to this Agreement, the Pueblo shall prepare its own final acceptance package documents for those improvements actually constructed by the Pueblo.

Upon receipt of the Developer’s “final acceptance package,” the chief planning officer shall review it for completeness and accuracy. If the documentation has been satisfactorily completed, the Land Use Planning Commission shall approve the package and recommend that the Council issue a Certificate of Completion and Acceptance. Any financial guarantee provided by the Developer in accordance with Attachment “C” to the Development Improvements Agreement between the Developer and the Pueblo shall be released no later than sixty (60) days after issuance of the Certificate of Completion and Acceptance.

4. PAYMENT OF FEES.

Prior to issuance of construction permit the Developer shall pay to the Pueblo the following fees:

<u>Type of Fee</u>	<u>Amount</u>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

Prior to final acceptance of the improvements by the Pueblo, the Developer shall pay any other Pueblo fees, which may have been incurred during the process of construction.

**ATTACHMENT “B”
TO
“DEVELOPMENT IMPROVEMENTS AGREEMENT”**

**EXECUTED BY AND BETWEEN _____(DEVELOPER)
AND THE PUEBLO OF SANTA ANA (PUEBLO)
ON THE _____ DAY OF _____, 20____**

1. CONSTRUCTION INSPECTION METHODS.

Inspection of the Development improvements construction shall be performed by _____ a New Mexico Registered Professional Engineer, in accordance with all applicable ordinances and regulations. If said inspection is performed by an entity other than the Pueblo, the Pueblo may monitor said inspection and the Developer shall ensure that the inspecting entity provides all inspection results, reports and related data to the Pueblo as required for review. The Pueblo retains the right to perform its own general overall inspection of the construction project at any time prior to final acceptance of the improvements if deemed necessary or advisable by the Pueblo. For any inspections performed by the Pueblo, the Developer shall pay to the Pueblo a reasonable fee therefore.

2. CONSTRUCTION SURVEYING.

Construction surveying for the Development improvements project shall be performed by _____ in accordance with all applicable laws, ordinances and regulations. If said construction surveying is performed by an entity other than the Pueblo, the Pueblo may monitor said construction surveying and the Developer shall ensure that the construction surveying entity provides all construction surveying field notes, plats, reports and related data to the Pueblo as required for review. If any construction surveying is performed by the Pueblo, the Developer shall pay to the Pueblo a reasonable fee therefore.

3. FIELD TESTING.

Field testing of the Development improvements construction shall be performed by _____, a certified testing laboratory under the supervision of a New Mexico Professional Engineer, in accordance with the technical standards contained in the applicable contract documents on all applicable ordinances and regulations. If any field testing is performed by an entity other than the Pueblo, the Pueblo may monitor said field testing and the Developer shall ensure that the field testing entity provides all field testing results, reports and related data to the Pueblo as required for review. If any field testing is performed by the Pueblo, the Developer shall pay to the Pueblo a reasonable fee therefore.

4. RECORD TESTING.

Notwithstanding the provisions of Paragraph 3 above, the Pueblo retains the right to perform any and all record testing which may be deemed necessary or advisable by the Pueblo at the expense of the Developer.

**ATTACHMENT “C”
TO
“DEVELOPMENT IMPROVEMENTS AGREEMENT”**

**EXECUTED BY AND BETWEEN _____ (DEVELOPER)
AND THE PUEBLO OF SANTA ANA (PUEBLO)
ON THE _____ DAY OF _____, 20__**

1. PLAT APPROVAL STATUS.

The Developer has/has not requested final plat approval by tile Pump prior to construction of the Development improvements described in Paragraph 1 of the Development Improvements Agreement. If the Developer has not requested final plat approval prior to construction of the improvements, no financial guarantee is required by the Pueblo. However, the Development understands and agrees that the Pueblo will not approve the Developer’s proposed plat until the improvements are completed in accordance with the Agreement to which this document is attached.

If the Developer has requested final plat approval prior to the construction of the improvements, a financial guarantee in an amount of not less than _____ percent of the costs of completing the improvements (as estimated by the Engineer) is required pursuant to the General Land Use Ordinance. Said financial guarantee must be irrevocable in form and may be in the form of a performance bond payable to the Pueblo in the event of Developer’s default under the Development Improvements Agreement. Any bond is subject to approval by the Pueblo.

2. FINANCIAL GUARANTEE.

With respect to the Development Improvements Agreement to which this document is attached, the Developer has acquired or is able to acquire the following described financial guarantees (describe fully, indicate amount, identification number, names of bank or bonding entity, inclusive dates of guarantees, and all other relevant information):

The Developer understands and agrees that the original executed financial guarantee described above must be delivered to the Pueblo simultaneously with the Pueblo’s execution of the Development improvements Agreement between the Developer and the Pueblo; and must be in an amount of not less than ____ percent of the cost of completing the improvements, as estimated by the Engineer.

In the event the Developer shall fail or neglect to fulfill his obligations under this Agreement, the Pueblo shall have the right to construct or cause to be constructed the improvements specified herein, as shown on the Final Plat and in the plans and specifications as adopted, and the Developer as Principal and the surety or sureties shall be jointly and severally liable to pay and to indemnify the

Pueblo the total cost to the Pueblo thereof, including but not limited to, engineering, legal, and contingent costs together with any damages, either direct or consequential, which the Pueblo may sustain on account of the failure of the Developer to carry out and execute all of the provisions of the Agreement to which this document is attached. The Pueblo shall have the unconditional right to call upon the financial guarantee provided by the Developer described in this paragraph for the purposes specified and in the amounts enumerated in such guarantee.

3. PROCEDURES FOR REDUCTION OF FINANCIAL GUARANTEE UPON PARTIAL COMPLETION IMPROVEMENTS.

The Developer may request a reduction in the amount of financial guarantee upon partial completion of the Development improvements. To qualify for a financial guarantee reduction, the completed improvements must be of a freestanding nature, functionally independent of any uncompleted improvements, and completed in substantial compliance with the Development improvement plans as determined by an inspection conducted by the Pueblo.

If the completed improvements meet the above requirements, the Engineer will then estimate the cost of completing the remaining improvements. The Developer may then submit the following documents to the Pueblo for review and approval:

- (a) A revised financial guarantee in an amount of not less than percent of the Pueblo's estimated cost of completing the remaining improvements;
- (b) A release of the original financial guarantee for execution by the Pueblo;
- (c) Documentation that the completed improvements and the land in which the completed improvements are located are subject to no liens, claims or other encumbrances.
- (d) A bond or other suitable instrument guaranteeing the completed improvements against defective materials and workmanship for a period of three (3) years as set forth in Paragraph 6 of the Development Improvements Agreement between the Developer and the Pueblo.

Upon receipt of the above-described documents in forms acceptable to the Pueblo, the Pueblo shall issue a Certificate of Completion and Acceptance for the completed improvements and accept the revised financial guarantee tendered by the Developer.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, _____,
_____, as principals, and the _____ a
Corporation authorized to do business in the State of New Mexico, having an office and place of
business at _____, as Surety, are held and firmly bound unto the
Pueblo of Santa Ana, as Obligee, in the sum of _____ DOLLARS, (\$_____)
for the payment whereof to the Obligee, the Principal and the Surety bind themselves, their heirs,
executors, administrators, successors, and assigns, jointly and severally, firmly to these presents:

SIGNED AND DATED, this _____ day of _____, 20__.

WHEREAS, the application was made to the Obligee for approval of a development shown
on the final plat entitled “_____” and presented to the Land Use Planning
Commission of Santa Ana Pueblo on _____, 20__ approval of said final plat being
contingent upon certain conditions, one of which is that of a performance bond in the amount of
_____ DOLLARS (\$_____), be filed with the Land Use Planning
Commission to guarantee certain improvements in said development:

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the
above named Principal shall within _____ month(s)/years(s) from the date hereof
(time may be extended for a maximum period of one additional year by only the Pueblo with the
consent of the parties) will and truly make and perform the required improvements and construction
of public improvements in said development in accordance with all statutory requirements of Santa
Ana Pueblo and the Development Improvements Agreement of _____, 20__, then
this obligation shall be void; otherwise it shall remain in full force and effect.

It is hereby understood and agreed that in the event that any required improvements have not
been installed as provided by said Development Improvements agreement within the term of this
Performance Bond, the Pueblo may thereupon declare this bond to be in default and collect the sum
remaining payable thereunder and upon receipt of the proceeds thereof, the Pueblo shall install such
improvements as are covered by this bond and commensurate with the extent of building
development that has taken place but not exceeding the amount of such proceeds.

Principal

Principal

Surety

By: _____
Attorney-in-fact

BOND NO. _____

**MADE PURSUANT TO PUEBLO OF SANTA ANA
GENERAL LAND USE ORDINANCE**

Case #: _____

1. Name of Development _____
2. Name of Applicant _____ Phone _____
Address _____
3. List Owners and Address and Percentage of Ownership of Applicant.

_____ %
_____ %
_____ %
_____ %
_____ %
_____ %
4. Name of Local Agent _____ Phone _____
Address _____
5. Lessee of Record _____ Phone _____
Address _____
6. Engineer _____ Phone _____
Address _____
7. Land Surveyor _____ Phone _____
Address _____
8. Attorney _____ Phone _____
Address _____
9. Development Location: _____

10. Santa Ana Pueblo Land Use Area Designation _____
11. Total Acreage _____ Number of Lots _____
12. Has the Land Use Planning Commission granted any variance, exception, or special permit concerning this property? _____
If so, describe: _____
13. Lessees of land 100 feet adjacent or opposite _____

14. Attach three copies (3) of proposed preliminary plat.
15. Attach three (3) copies of construction plans.
16. Attach a check in the amount of \$200 (nonrefundable application processing fee)
17. List all other leases held by the same developer: _____

Section _____ Lot(s) _____

IN THE EVENT OF CORPORATE DEVELOPMENT: A list of all directors, officers, and stockholders of each corporation owning more than five percent (5%) of any class of stock, must be attached.

STATE OF NEW MEXICO)
COUNTY OF _____) ss.

I, _____, hereby depose and say that all the above statements contained in the papers submitted herewith are true.

Mailing Address

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary Public

My Commission Expires:

APPLICATION FOR FINAL PLAT APPROVAL

**MADE PURSUANT TO PUEBLO OF SANTA ANA
GENERAL LAND USE ORDINANCE
(To be filed in duplicate)**

Date: _____

Case #: _____

Date of Preliminary Plat Approval: _____

1. Name of Development _____

2. Name of Applicant _____ Phone _____

Address _____

3. List Owners and Address and Percentage Ownership

_____	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

4. Name of Local Agent _____ Phone _____

Address _____

5. Lessee of Record _____ Phone _____

Address _____

6. Engineer _____ Phone _____

Address _____

7. Land Surveyor _____ Phone _____

Address _____

8. Attorney _____ Phone _____

Address _____

9. Development Location: _____

10. Santa Ana Pueblo Land Use Area Designation _____

11. Total Acreage _____ Number of Lots _____

12. Has the Land Use Planning Commission granted any variance, exception, or special permit concerning this property? _____

If so, describe: _____

13. Have any changes been made since this plat was last before the Commission and Council? _____. If so, describe them _____

14. Lessees of land 100 feet adjacent or opposite _____

15. Attach three (3) copies of proposed final plat.

16. Attach three (3) copies of construction plans.

17. Attach certificates executed respectively by utility companies certifying that satisfactory provisions have been made with each of them as to location of their facilities and that easements, were required, have been provided.

18. Attach proof of posting of performance bond.

19. Attach executed Development Improvements Agreement together with Attachments A, B and C thereto.

20. Attach proof of compliance with pertinent minimum design standards with regard to the following: water supply and water quality provisions; liquid waste and solid waste provisions; tertian management provisions; highway access provisions, electrical connection provisions; fire protection; road provisions; any other provisions determined by the Land Use Planning Commission as follows:

21. Attach or show on final plat a certificate executed by the chief planning officer for the Pueblo or for its economic development entity certifying that the development complies with all applicable Santa Ana Pueblo ordinances.

22. Attach a check in the amount of \$200 (nonrefundable application processing fee).

23. List all other leases held by the same developer: _____

Section _____ Lot(s) _____

IN THE EVENT OF CORPORATE DEVELOPMENT: A list of all directors, officers, stockholders of each corporation owning more than five percent (5%) of any class of stock, must be attached.

STATE OF NEW MEXICO)
COUNTY OF _____) ss.

I, _____, hereby depose and say that all the above statements and the statements contained in the papers submitted herewith are true.

Mailing Address

SUBSCRIBED AND SWORN to before me this _____day of _____, 20____.

Notary Public

My Commission Expires:

ARTICLE 8 - DOMESTIC ANIMAL CONTROL

Sec. 15-8-1 Title

This Article may be cited as the “Animal Control Code”.

Enacted by Ordinance Number 98-O-01, adopted April 30, 1998; amended by Resolution Number 99-R-13, signed May 4, 1999.

Sec. 15-8-2 Definitions

- A. “Animal” means any vertebrate member of the animal kingdom excluding man.
- B. “Bite” means an actual puncture or tear of the skin inflicted by the teeth of an animal.
- C. “Enclosed Lot” means parcel of land or portion thereof in private ownership around the perimeter of which a wall or fence has been erected.
- D. “Estray” means any animal found running-at-large beyond the boundaries of the premises of the owner.
- E. “Nuisance” means, but is not limited to defecation, urination, disturbing the peace, damaging property or otherwise endangering or offending the well being of the people of Santa Ana Pueblo.
- F. “Owner” of an animal is a person who owns, harbors, or keeps or knowingly permits an animal to be kept or permits an animal to remain on or about his/her premises.
- G. “Person” means any individual or household.
- H. “Premises” means a parcel of land owned, leased, rented, or controlled by a person. Such parcel may include a house.
- I. “Quarantine” is to detain or isolate an animal.
- J. “Run or Running at Large” means any animal off the premises of the owner and not within the direct control of a competent person, is considered to be running-at-large.
- K. “Direct Control” means connected by a leash or some other means of direct control.
- L. “Off the Premises” means beyond the boundaries of the premises of the owner.
- M. “Stray” means any animal which shall be off and away from its home, unattended without tags or other identification of ownership and running at large within the Pueblo.
- N. “Vaccination” means protection provided against rabies by inoculation by an anti-rabies serum.

O. "Vicious Attack" shall mean any animal which shall bite or in any manner attack or attempt to attack any person within the Pueblo, attempts to attack any person unlawfully upon its owner's premises shall not be deemed a vicious animal.

P. "Household" means all persons residing in a single dwelling regardless of the number of family units occupying the premises.

Enacted by Ordinance Number 98-O-01, adopted April 30, 1998; amended by Resolution Number 99-R-13, signed May 4, 1999.

Sec. 15-8-3 Administration of the the Animal Control Code

A. The traditional tribal officials (capitans) and police officers are responsible for the enforcement of this Animal Control Code. Reasonable rules and regulations shall be prescribed by the Governor and/or Tribal Council to carry out the intent and purpose of this Code, pursuant to the standards created by this Code.

B. Authority of tribal officials and police officers

1. Shall have the authority to issue citations for violations of this Code and to perform such other duties as prescribed herein.

2. May impound any animal found running at large unaccompanied by or not under the control of the owner, furthermore, they shall destroy the animal if it is in the act of pursuing or wounding livestock, wounding or killing poultry, or attacking humans. There shall be no liability of the tribal officials or police officers for damages or otherwise for such killing.

Enacted by Ordinance Number 98-O-01, adopted April 30, 1998; amended by Resolution 99-R-13, signed May 4, 1999.

Sec. 15-8-4 Ownership

Families within the Pueblo area shall be restricted to ownership of (2) two dogs per household.

Families living at Tamaya shall be restricted to ownership of two dogs per household.

Any family, in a rural area of the tribal lands, who feels they need more than two dogs, must justify and petition to the tribal officials for approval to exceed the allowable dog ownership ordinance.

The limitations for ownership of dogs shall become effective upon the adoption of this Code by the Santa Ana Pueblo Tribal Council.

Enacted by Ordinance Number 98-O-01, adopted April 30, 1998; amended by Resolution 99-R-13, signed May 4, 1999.

Sec. 15-8-5 Owner's Duties

A. Rabies Vaccination

It is the duty of persons owning or keeping a dog or cat over the age of three months to have such animal vaccinated against rabies.

B. Rabid Animal

An animal that has rabies or shows signs of having rabies and every animal bitten by the suspected animal shall be confined at once in a secure place by the owner. The person who has knowledge of rabies infection or exposure shall immediately notify the Governor and the police department of the place the animal is confined and turn such animal over to him upon request.

C. Dog or other animal biting a person when any person is bitten by an animal, it is the duty of such person or his parents and of the owner of the animal to immediately notify the Indian Health Service. The owner of the animal will immediately and at HIS/HER EXPENSE shall confine securely for ten (10) days at a place designated by the Governor or Indian Health Service. The Indian Health Service physician within 24 hours after the first treatment upon a person by any animal having or suspected of having rabies, report to the Indian Health Service office with the name, age, sex, and address of the person bitten.

1. Any dog or cat bitten by an animal known or proven to be rabid shall be killed immediately by its owner, by tribal officers, or police officers, if the dog or cat has been vaccinated at least three (3) weeks prior shall be confined for 90 days. At the end of the confinement period the dog or cat may be released back to the owner if free of rabies as determined by a veterinarian. If during the 90 days the dog or cat develops rabies then the owner shall have it killed and properly disposed of.

2. It shall be deemed unlawful for any person to keep any animal known to be vicious and liable to attack and/or injure people, unless the animal is kept secure as to prevent injury to a person or other animals. If the animal has bitten people in the past and another biting incident has occurred, the animal shall be immediately destroyed.

3. No dogs or cats shall be allowed upon public playgrounds, or public swimming pools unless secured by a leash.

4. All female dogs and cats are to be spayed.

Enacted by Ordinance Number 98-O-01, adopted April 30, 1998; amended by Resolution 99-R-13, signed May 4, 1999.

Sec. 15-8-6 Prohibited Activities

A. Animals Running-at-Large

Any person owning or having custody, care or control of any animal shall keep such animal on his premises. No animal shall be at large in or on any street, alley ways, vacant lots, public property or other unenclosed space in the Pueblo. Any animal found running-at-large is in violation of this section and is declared to be a nuisance, a menace to public health and safety and if observed by a tribal official or police officer may be taken and impounded as provided by this Code.

B. Vicious Animals

It is unlawful for any person to keep a vicious animal in the Pueblo. Any person attacked by a vicious animal while on public property may use reasonable force to repel said attack. After the courts determine that an animal is vicious, the owner shall destroy the animal.

C. Animal Disturbing the Peace

It is unlawful to allow any animal in his possession to persistently or continuously bark, howl, or make noise common to their species or otherwise disturb the peace and quiet of people of Santa Ana.

D. Destruction of Property by an Animal

It is unlawful for any animal to cause damage to any property owned by another person. If the animal can be identified and the owner is notified, the cost of damages shall be assessed by the courts.

E. No person shall own the following breed of dogs: German Shepard, Rottweiller, Cocker Spaniel, Dalmation, Pit Bull, Doberman Pincher. It may be necessary from time to time to update this list to include other animals which are deemed dangerous.

F. At no time shall tribal members be in ownership of an unspayed female cat or dog.

Enacted by Ordinance Number 98-O-01, adopted April 30, 1998; amended by Resolution 99-R-13, signed May 4, 1999.

Sec. 15-8-7 Penalty Clause

Any person who violates any of the provisions of this Animal Control Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of up to but not exceeding \$500.00 (Five-Hundred Dollars) and/or imprisonment for a period of up to 90 days.

Enacted by Ordinance Number 98-O-01, adopted April 30, 1998; amended by Resolution 99-R-13, signed May 4, 1999.

ARTICLE 9 - SOLID WASTE MANAGEMENT

Sec. 15-9-1 Title

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

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-2 Scope

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

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-3 Purposes

The purposes of this Code are to ensure that efficient, nuisance-free and environmentally sound waste management procedures are practiced on the Pueblo; and to support and encourage recycling efforts throughout the Pueblo, in an effort to protect the Pueblo environment and the health and welfare of Pueblo residents and occupants.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-4 Sovereign Immunity

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

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-5 Definitions

A. "Animal carcass" means any dead animal or animal remains including pets, livestock, and wildlife. Excludes remains of animals processed for human consumption.

B. "Code" means the Solid Waste Management Code.

C. "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.

D. "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.

E. "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.

F. "Garbage" means discarded materials resulting from the handling, processing, storage or consumption of food including putrescible wastes.

G. "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.

H. "Hazardous waste" means any waste identified by the Department of Natural Resources as hazardous to human health or the environment or is identified as being hazardous 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. 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 cleaners, 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.

I. "Leachate" means a liquid solution that forms as water percolates through solid waste.

K. "Litter" means to discard any waste or materials in areas or receptacles other than those designated for such waste or materials.

L. "Municipal solid waste" means non-hazardous solid waste generated from residential, commercial and industrial non-process sources.

M. "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 a considerable number of persons.

N. "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.

O. "Person" means an individual, association, partnership, corporation, government agency or any entity, including any agent of the foregoing.

P. "Premises" means any land, including the improvements thereon.

Q. "Pueblo" means the Pueblo of Santa Ana.

R. "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 Pueblo.

S. "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.

T. "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.

U. “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.

V. “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.

W. “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.

X. “Sharps” means hypodermic needles, syringes, scalpels, lancets and other sharp instruments used in medical procedures which can harbor infectious waste material.

Y. “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.

Z. “Tribal Council” means the governing body of the Pueblo.

AA. “Tribal Court” means the Contemporary Court of the Pueblo.

BB. “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.

CC. “White goods” means major appliances, such as but is not limited to, washing machines, clothes dryers, water heaters, air conditioners, stoves, dishwashers, freezers and refrigerators.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-6 Duties of the Department of Natural Resources

The Department of Natural Resources shall:

A. Implement the Pueblo’s Integrated Solid Waste Management Plan, subject to the approval of the Tribal Council.

B. 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.

C. 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 adopted by the Tribal Council, shall have the force of law on the Pueblo.

D. Identify and close all open dumps on the Pueblo.

E. 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.

F. Implement a recycling and re-use program on the Pueblo.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-7 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

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-8 Storage of Solid Waste

A. The owner or occupant of any premises shall be responsible for the sanitary storage of all solid waste accumulated at such premises.

B. Garbage or municipal solid waste shall be stored in:

1. Durable, rust-resistant, non-absorbent, watertight, animal-proof containers.
2. All containers shall be maintained in a manner as to prevent the creation of a nuisance, unsafe or unsanitary condition.

C. No person shall store hazardous waste at any location except under the following conditions:

1. Small quantities of hazardous waste associated with regular residential or business uses may be stored at any premises for no longer than six months.
2. 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 Pueblo.

D. 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 Pueblo.

E. Any person who violates subsections (A), (B), or (D) of this section is subject to the following civil penalties: 1st offense, \$100.00; 2d offense, 3rd or subsequent offense, \$500.00. Any person who violates subsection (C) of this section is subject to the following civil penalties: 1st offense, \$200.00, 2d offense, \$350.00, 3rd offense, \$500.00.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-9 Disposal of Solid Waste

A. Solid waste shall be disposed of in accordance with this Code in a timely manner to prevent noxious odors and other nuisance conditions.

B. No person shall dump, deposit or dispose in any manner, solid waste within the Pueblo except at a Pueblo Transfer Station or designated waste receptacle.

C. 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.

D. 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 Pueblo.

E. 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 adopted by the Pueblo's Integrated Solid Waste Management Plan.

F. No person shall litter within the Pueblo.

G. No person shall burn solid waste within the Pueblo, except for green waste, which may be burned pursuant to and in accordance with a permit obtained from the Pueblo's Tribal Administration Office.

H. 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.

I. No person shall dump, deposit or dispose of solid waste generated outside the exterior boundaries of the Pueblo anywhere within the boundaries of the Pueblo.

J. No person shall maintain or cause to be maintained an open dump within the Pueblo.

K. 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 and does not otherwise violate Pueblo law.

L. Any person who violates subsections (A) through (H) of this section is subject to the following civil penalties: 1st offense, \$100.00; 2d offense, \$250.00; 3rd or subsequent offense, \$500.00. Any person who violates subsection (I) of this section is subject to the following civil

penalties: 1st offense, \$125.00; 2d offense, \$300.00; 3rd offense, \$500.00. Any person who violates subsection (J) of this section is subject to the following civil penalties: 1st offense, \$200.00; 2d offense, \$400.00; 3rd offense, \$660.00.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-10 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.

- A. No person shall dispose of loose hypodermic needles or sharps in the garbage.
- B. All sharps must be disposed of in hard plastic or metal containers that are fitted with a screw-on cap or tightly secured lid.
- C. The container of sharps must be labeled "NOT FOR RECYCLING."
- D. No person shall dispose of any container holding sharps in a recycling container, area or facility.
- E. No person shall dispose of sharps in a glass or clear plastic container.
- F. No person shall flush sharps down the toilet.
- G. All containers holding sharps must be kept out of the reach of children.
- H. The lid of all containers of sharps must be reinforced with duct tape.
- L. Any person who violates subsections (A) through (G) of this section is subject to the following civil penalties: 1st offense, \$100.00; 2d offense, \$250.00; 3rd or subsequent offense, \$500.00. Any person who violates subsection (H) of this section is subject to the following civil penalties: 1st offense, \$100.00; 2d offense, \$200.00; 3rd offense, \$300.00.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-11 Operational Requirements

- A. All Pueblo Transfer Stations shall comply with the operational and any other requirements included in the Pueblo's Integrated Solid Waste Management Plan.
- B. 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.
- C. Pueblo Transfer Stations with permanent operating mechanical equipment must have an attendant on duty whenever the facility is open.
- D. 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.

E. 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.

F. Pueblo Transfer Stations shall have adequate storage space for incoming solid waste.

G. Pueblo Transfer Stations shall be equipped with adequate fire protection.

H. All solid waste passing through a Pueblo Transfer Station shall be ultimately treated or disposed of outside the exterior boundaries of the Pueblo at a facility authorized by the appropriate federal or state governmental agency.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-12 Recycling 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.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-13 Education

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

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-14 Enforcement

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

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-15 Civil Penalty

A. 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 set forth at Sections 15-9-8 through 15-9-10 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.

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

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-16 Civil Penalty Assessment

At the time that any person is cited for violating any provision of this Code for which a civil penalty is provided, 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 set for at Sections 15-9-8 through 15-9-10. 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.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-17 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.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-18 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:

- A. 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.
- B. Perform community service, upon a showing of financial hardship, in lieu of a civil penalty.
- C. Pay the attorney's fees and costs incurred by the Pueblo in enforcing this Code.
- D. Forfeit any seized items pursuant to a court proceeding.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-19 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

A. contain two or more items bearing the name of one individual; or

B. the owner of abandoned, inoperable vehicles, white goods and large bulky items is identified by vehicle registration or other means; or

C. 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.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.

Sec. 15-9-20 Statute of Limitations

All actions to enforce violations of this Code, shall be commenced within three years after the violation is discovered.

Enacted by Resolution Number 11-R-12, adopted June 21, 2011.