

CHAPTER 11 - SANTA CLARA PUEBLO HOUSING AUTHORITY

Sec. 11.1 Establishment of Housing Authority

1. Pursuant to the authority vested in the Santa Clara Pueblo by its constitution, and particularly by Article V, Section I thereof, and its authority to provide for the health, safety, morals and welfare of the Tribe, the Tribal Council of the Santa Clara Pueblo hereby establishes a public body known as the Santa Clara Pueblo Housing Authority (hereinafter referred to as the Authority), and enacts this ordinance which shall establish the purposes, powers and duties of the Authority.

2. In any suit, action or proceeding involving the validity or enforcement of or relating to any of its contracts, the Authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of this ordinance. A copy of this ordinance duly certified by the Secretary of the Council shall be admissible in evidence in any suit, action or proceeding.

Enacted by Res. No. 96-22, October 29, 1996.

Sec. 11.2 Declaration of Need

It is hereby declared:

A. That there exist on the Santa Clara Pueblo unsanitary, unsafe, and overcrowded dwelling accommodations: that there is a shortage of decent, safe and sanitary dwelling accommodations available at rents or prices which persons of low income can afford; and that such shortage forces such persons to occupy unsanitary unsafe and overcrowded dwelling accommodations;

B. That these conditions cause an increase in and spread of disease and crime and constitute a menace to health, safety, morals and welfare; and that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety protection, fire and accident prevention and other public services;

C. That the shortage of decent, safe and sanitary dwellings for persons of low income cannot be relieved through the operation of private enterprises;

D. That the providing of decent, safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which money may be spent and private property purposes for which money may be spent and private property acquired and are governmental functions of Tribal concern;

E. That residential construction activity and a supply of acceptable housing are important factors to general economic activity, and that the undertakings authorized by this ordinance to aid the production of better housing and more desirable neighborhood and

community development at lower costs will make possible a more stable and larger volume of residential construction and housing supply which will assist materially in achieving full employment;

F. That the necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

Enacted by Res. No. 96-22, October 29, 1996.

Sec. 11.3 Purposes

The Authority shall be organized and operated for the purposes of:

A. Remedying unsafe and unsanitary housing conditions that are injurious to the public health, safety and morals;

B. Alleviating the acute shortage of decent, safe and sanitary dwellings for persons of low income; and for persons of moderate and high income;

C. Providing employment opportunities through the constructions, reconstruction, improvement, extension, alternation or repair and operation of low-income dwellings.

Enacted by Res. No. 96-22, October 29, 1996.

Sec. 11.4 Definitions

The following terms, wherever used or referred to in this ordinance, shall have the following respective meanings, unless a different meaning clearly appears from the context:

A. "Area of Operation" means all areas within the jurisdiction of the Tribe.

B. "Board" means the Board of Commissioners of the Authority.

C. "Council" means that Tribal Council.

D. "Federal Government" includes the United States of American, HUD, or any other agency or instrumentality, or corporation, of the United States of America,

E. "Home buyer" means a person(s) who has executed a lease-purchase agreement with the Authority, and who has not yet achieved home ownership.

F. "Housing Project" or "Project" means any work or undertaking to provide or assist in providing, (by any suitable method, including but not limited to: rental, sale or individual units in single or multifamily structures under conventional condominium, or cooperative sales contracts or lease-purchase agreements: loans; or subsidizing of rental or charges) decent, safe and sanitary dwellings, apartments or other living

accommodations for tribal and non-tribal members. Such work or undertaking may include buildings, land, leaseholds, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, for streets, sewers, water service, utilities, parks, site preparation or landscaping, and for administrative, community, health, recreational, welfare, or other purposes. The term “housing project” or “project” also may be applied to the planning of the buildings and improvements, the acquisition of property or any interest therein, the demolition of existing structures, the construction, reconstruction, rehabilitation, alteration or repair of the improvements or other property and all other work in connection therewith, and the term shall include all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

- G. “Obligations” means any notes bonds, interim certificates, debentures, or other forms of obligation issued by the Authority pursuant to this ordinance.
- H. “Obligee” includes any holder of an obligation, agent or trustee for any holder of an obligation, or lessor demising to the Authority property used in connection with the project, or any assignee or assignees of such lessor’s interest or any part thereof, and the Federal government when it is a party to any contract with the Authority in respect to a housing project.
- I. “Persons of low income” means persons of families who cannot afford to pay enough to cause private enterprise in their locality to build an adequate supply of decent, safe, and sanitary dwellings for their use.

Enacted by Res. No. 96-22, October 29, 1996.

Sec. 11.5 Board of Commissioners

- A. The affairs of the Authority shall be managed by a Board of Commissioners composed of five persons.
- B. The Board members shall be appointed and may be re-appointed by the Council. A certificate of the Secretary of the Council as to the appointment or reappointment of any commissioner shall be conclusive evidence of the due and proper appointment of the Commissioner.
- C. A Commissioner may be a member or non-member of the Tribe and may be a member of the Tribal Council.
- D. No person shall be barred from serving on the board because he or she is a tenant or home buyer in a housing project of the Authority; and such Commissioner shall be entitled to fully participate in all meeting concerning matters that affect all of the tenants or home buyers, even though such matters affect him or her as well. However, no such Commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his/her capacity as a tenant or home buyer), or to be counted or

treated as a member of the Board, concerning any matter involving his/her individual rights, obligations or status as a tenant or home buyer.

- E. The term of office shall be four years and staggered. When the Board is first established, one member's term shall be designated to expire in one year, another to expire in two years, a third to expire in three years, and the other two to expire in four years. Thereafter, all appointments shall be for four years, except that in the case of a vacancy an appointment shall be only for the length of the unexpired term. Each member of the Board shall hold office until his or her successor has been appointed and has qualified.
- F. The Council shall name one of the Commissioners as Chairman of the Board. The Board shall elect from among its remaining members a Vice-Chairman and a Secretary-Treasurer. In the absence of the Chairman, the Vice-Chairman shall preside over meetings of the Board of Commissioners; and in the absence of both the Chairman and Vice-Chairman, the Secretary-Treasurer shall preside.
- G. A member of the board may be removed by the appointing power.
- H. The Commissioners shall not receive compensation for their services but shall be entitled to compensation for expenses, including travel expense incurred in the discharge of their duties.
- I. A majority of the number of Commissioners then in office shall constitute a quorum for the transaction of business at any meeting unless applicable law requires a different quorum. A quorum once attained at a meeting shall be deemed to continue until adjournment notwithstanding the voluntary withdrawal of enough Commissioners to leave less than a quorum.
- J. The Secretary shall keep complete and accurate records of all meetings and actions taken by the Board.
- K. The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report, in written form, to the Council as required by Section 11.8 of this Chapter.
- L. Meetings of the Board shall be held at regular intervals as provided in the bylaws. Emergency meetings may be held upon 24 hours actual notice and business transacted, provided that not less than a majority of the full Board concurs in the proposed action.

Enacted by Res. No. 96-22, October 29, 1996; amended by Res. No. 07-03, April 11, 2007; amended by Res. No. 2018-082, Nov. 30, 2018.

Sec. 11.6 Powers

1. The Authority shall have perpetual succession in its corporate name.

2. The Council hereby gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities under this ordinance and hereby authorizes the Authority to agree by contract to waive any immunity from suit which might otherwise have; but the Tribe shall not be liable for the debts or obligations of the Authority.

3. The Authority shall have the following powers which it may exercise consistent with the purposes for which it is established:

A. To adopt and use a corporate seal.

B. To enter into agreements, contracts and understandings with any governmental agency, Federal, state or local (including the Council) or with any person, partnership, corporation or Indian Tribe; and to agree to any conditions attached to Federal financial assistance.

C. To obligate itself, in any contract with the Federal government for annual contributions to the Authority, to convey to the Federal government possession of or title to the project to which such contract relates, upon the occurrence of a substantial default (as defined in such contract) with respect to the covenants or conditions to which the Authority is subject; and such contract may further provide that in case of such conveyance, the Federal government may complete, operate, manage, lease, convey or otherwise deal with the project and funds in accordance with the terms of such contracts: Provided, That the contract requires that, as soon as practicable after the Federal government is satisfied that all defaults with respect to the project have been cured and that the project will thereafter be operated in accordance with the terms of the contract, the Federal government shall reconvey to the Authority the project as then constituted.

D. To lease property from the Tribe and others for such periods as are authorized by law and to hold and manage or to sublease the same.

E. To borrow or lend money, to issue temporary or long-term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Article VI of this ordinance.

F. To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.

G. To purchase land or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

H. To undertake and carry out studies and analysis of housing needs, to prepare housing plans, to execute the same, to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration or repair of any project or any part thereof.

I. With respect to any dwellings, accommodations, lands, buildings or facilities embraced within any project (including individual cooperative or condominium units); to lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or home buyers, including the establishment of Authorities, and concerning the occupancy, rental, care and management of housing units; and to make such further rules and regulations as the Board may deem necessary and desirable to effectuate the powers granted by this ordinance.

J. To finance purchase of a home by an eligible home buyer in accordance with regulations and requirements of HUD, Fannie Mae, FHA, VA, NMFA and private lending institutions.

K. To terminate any lease or rental agreement or lease-purchase agreement when the tenant or home buyer has violated the terms of such agreement, or failed to meet any of its obligations thereunder, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or home buyer.

L. To establish income limits for admission that ensure that dwelling accommodations in a housing project shall be made available in accordance with various program requirements.

M. To purchase insurance from any stock or mutual company for any property against any risk or hazards.

N. To invest such funds as are not required for immediate disbursement. All investments shall be made in accordance with Tribal investment policy.

O. To establish and maintain such bank accounts as may be necessary or convenient.

P. To employ a Professional, and technical staff, which may be permanent or temporary, as the Authority may require; and to delegate to such employees such powers or duties as the Board shall deem proper.

Q. To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

R. To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of the State of New Mexico or another Tribe in the exercise, either jointly or otherwise, of any or all to be powers of the Authority and such other public housing agency or agencies for the purpose of financing (including but not limited to the issuance of notes or other obligations and given security therefore), planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects of the

Authority or such other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authority's agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

S. To adopt such bylaws as the Board deems necessary and appropriate.

4. It is the purpose and intent of this ordinance to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority.

5. All ordinance or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this ordinance.

Enacted by Res. No. 96-22, October 29, 1996.

Sec. 11.7 Obligations

1. The Authority may issue obligations from time to time in its discretion for any of its purposes and may also issue refunding obligations for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations on which the principal and interest are payable:

A. exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project;

B. exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations;

C. from its revenues generally. Any of such obligations may be additionally secured by a pledge of any revenues of any project of other property of the Authority.

2. Neither the Commissioners of the Authority nor any person executing the obligations shall be liable personally on the obligations by reason of issuance thereof.

3. The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face.

4. Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of obligations and each of them, including all transferees of the obligations from time to time.

5. Obligations shall be issued and sold in the following manner:

A. Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.

B. The obligations shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.

C. The obligations may be sold at public or private sale at not less than par.

6. Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any obligation of the Authority of the security therefor, any such obligation reciting in substance that it has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued shall be conclusively deemed to have been planned, located and carried out in accordance with the purposes and provisions of this ordinance.

7. In connection with the issuance of obligations or incurring of obligations under leases and to secure the payment of such obligations, the Authority, subject to the limitation in this ordinance, may:

A. Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

B. Provide for the powers and duties of obligees and limit their liabilities; and provide the terms and conditions on which such obligees may enforce any covenant or rights securing or relating to the obligations.

C. Covenant against pledging all or any part of its rents, fees and revenues or against mortgaging any or all of its real or personal property to which its title or right then exists or may thereafter come into existence or permitting or suffering any lien on such revenues or property.

D. Covenant with respect to limitations on its right to sell, lease or otherwise dispose of any enumerated in this section

Enacted by Res. No. 96-22, October 29, 1996.

Sec. 11.8 Miscellaneous

1. The Authority shall submit an annual report, signed by the Chairman of the Board, to the Council showing:

A. a summary of the year's activities;

B. the financial conditions of the Authority;

C. the condition of the properties;

D. the number of units and vacancies;

E. any significant problems and accomplishments;

F. plans for the future; and

G. such other information as the Authority or the Council shall deem pertinent.

2. During his tenure and for one year thereafter, no Commissioner, officer or employee of the Authority, or any member of the governing body of the Tribe, or any other public official who exercises any responsibility or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project or any property included or planned to be included in any project, or in any contract or purpose contract relating to any project, unless prior to such acquisition, he discloses his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the Commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. If any Commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a Commissioner, officer, or employee, the Commissioner, officer or employee, in any such event shall immediately disclose his interest in writing to the Authority, and such disclosure shall be entered upon the minutes of the Authority, and the Commissioner, officer, or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connections with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board as provided in Article IV, Section 1(a)(4).

3. The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.

4. The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Tribe.

5. All property including funds acquired or held by the Authority pursuant to this ordinance shall be exempt from levy and sale by virtue of an execution, and not execution or other judicial process shall issue against the same nor shall any judgment against the Authority to be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on obligees to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance or the right of the Authority to being eviction actions in accordance with Article V, Section 3(k).

6. Nothing in the ordinance shall be deemed to create or grant right or interest in or to any Tribal land to any home buyer other than a lease hold interest which may from time to time be granted to a home buyer by the Authority.

Enacted by Res. No. 96-22, October 29, 1996.

Sec. 11.9 Cooperation in Connection with Projects

A. It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.

B. It will furnish or cause to be furnished to the Authority and the occupants or projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge other dwellings and inhabitants.

C. Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety , and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary to the development and protection of such project, and the surrounding territory.

D. It will do any and all things, within its lawful powers, necessary or convenient to aid and cooperate the planning, undertakings, construction or operation of projects.

E. The Tribal government hereby declares that the powers of the Tribal government shall be vigorously utilized to enforce eviction of a tenant or home buyer for nonpayment or other contract violations including action through the appropriate courts.

F. The Tribe Courts shall have jurisdiction to bear and determine an action for eviction of a tenant or home buyer. The Tribal government hereby declares that the

powers of the Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or home buyer for nonpayment or other contract violations.

Enacted by Res. No. 96-22, October 29, 1996.

TITLE II

CHAPTER 12 - UTILITIES CODE

Sec. 12.1 Title

This Chapter shall be known as the Santa Clara Pueblo Utilities Code.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019.

Sec. 12.2 Purposes

The purposes of the Santa Clara Pueblo Utilities Code ("Code") are to establish the Santa Clara Pueblo Utility Authority and to define the policies for the operation, maintenance, repair, and extension of the Pueblo's Public Utility services and systems, and the management of such Public Utility operations.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.3 Policy

It is the policy of the Pueblo that the Pueblo water and wastewater systems, solid waste management, Broadband internet connection services and facilities, and any additional Public Utility service that the Pueblo in the future elects to provide and assign to the Authority for operation and management in the future, shall be operated, maintained, repaired, and extended in a manner that assures that all Pueblo residents, businesses, and other entities on Pueblo Lands receive a high level of economical, safe and reliable public utility service in a manner that improves the health and welfare of each individual and the community. It is also the policy of the Pueblo that the operation, maintenance, repair, and extension of the Pueblo Public Utility systems shall be carried out in a financially responsible, cost-effective, and appropriately engineered manner to protect and improve the health, safety, and well-being of persons within the jurisdiction of the Pueblo. Finally, it is the objective and intent of the Pueblo and the Authority that the Authority manage and operate the Public Utilities on a financially self-sustained basis and with substantial operational independence from the Pueblo as soon as an Authority Financial and Operational Independence Plan can be developed by the Executive Director and Commission and submitted to and approved by the Governor and Tribal Council.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.4 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 Clara Pueblo Utility Authority established by this Code.

B. “Authority Banking Accounts & Processes” means (1) the established banking accounts required to (a) collect Authority Revenue, (b) prudently administer and temporarily manage it until needed for Authority purposes, and (c) disburse such funds for authority purposes consistent with a Commission approved annual or supplemental budget or specific Commission authorization and (2) the administrative processes developed by the Authority and approved by the Commission to appropriately and efficiently self-administer all funds of the Authority.

C. “Authority Budgeting & Financial Procedures & Controls” means the procedures and controls established by the Authority and approved by the Commission to appropriately and effectively administer all Revenues received by the Authority, funds of the Authority and disbursements for authorized Authority purposes, and to permit the Authority’s funds and operations to be accounted for as an enterprise fund of the Pueblo.

D. “Authority Financial & Operational Independence Plan” means a comprehensive plan developed by the Executive Director and other appropriate Authority personnel, approved by the Commission and submitted to and approved by the Pueblo’s Governor and Tribal Council which, with a substantial degree of confidence, (1) identifies and projects sufficient on-going sources of Authority Revenue and other required funding to meet all of the Authority’s operating and capital needs, and (2) provides for the appropriate and efficient administration and management by the Authority of all such necessary operating and capital funds until required to be disbursed for Authority purposes as provided in the Authority Budgeting & Financial Procedures & Controls and Authority Banking Accounts & processes established as an integral part of such plan.

E. “Authority Personnel Policies & Procedures” means the comprehensive policies and procedures developed by the Executive Director and other appropriate Authority personnel and approved by the Commission to appropriately and effectively manage and supervise all Authority Personnel.

F. “Authority Revenue” means money received by the Authority from its operations, including billing for the services provided by the Authority, applicable fees and charges, and any rent or other ancillary revenues.

G. “Backflow Preventor” means a device used to protect a drinking water supply from contamination.

H. “Broadband” means the facilities and operations necessary to transmit wide

bandwidth over a high-speed internet connection via fiber optics, wireless, cable, DSL, and/or satellite.

I. “Broadband Services” means the provision of wide bandwidth, high speed internet access to Customers.

J. “Broadband System” means all facilities and equipment necessary to provide Broadband service to a Customer.

K. “Collection Lines” are those wastewater lines by which wastewater collection and disposal services are provided to Customers. These lines include the mains between manholes and the sections of the wastewater lines between Customer shut-off/clean-out valves and the mains.

L. “Commission” means the Santa Clara Pueblo Utility Commission, as established by this Code.

M. “Contractor” means any individual, firm or organization which is contracts with the Utility Authority to provide services, repairs, design, construction, reconstruction, extension or operation of any Public Utility or any installation or system used thereby.

N. “Council” means the Tribal Council of the Pueblo of Santa Clara.

O. “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.

P. “Customer” means a Person who receives Public Utility Services from the Authority.

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

R. “Drinking water” means water safe for human consumption without risk of immediate or long-term harm and meeting all applicable federal and Pueblo standards and regulations on contaminant levels.

S. “Executive Director” means the Executive Director of the Authority as established by this Code, who is responsible for the operations and affairs of the Authority subject to supervision by the Commission.

T. “Governor” means the Governor of the Pueblo of Santa Clara.

U. “Meter” is a device, owned by the Authority, for measuring the amount of measurable Public Utility Service, including water, provided to a particular Customer.

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

W. “Person” means any natural person, corporation, partnership, limited liability company, joint venture, association, organization, governmental agency, or other legal entity.

X. “Public Utilities” means all utility systems and services owned, operated, and/or managed by the Utility Authority on behalf of the Pueblo of Santa Clara currently or in the future, including the water and wastewater systems, Solid waste disposal, Broadband, and any other utility operations in the future assigned by the Pueblo to the Authority for operation and management. For this purpose, “assigned” means the designation by Tribal Council Resolution of the Authority as the operator and manager of a Public Utility, whether such Public utility is developed by the Authority or by the Pueblo, If one or more additional Public Utilities are assigned by the Pueblo to the Authority for operation and management, this Code may be supplemented to provide for matters concerning the operation, proper use of services, and other matters specific to the form of Public Utility involved.

Y. “Pueblo Lands” means all lands within the exterior boundaries of the Pueblo, including those owned by the Pueblo subject to restriction against alienation imposed by federal law or lands held in trust for the Pueblo by the United States.

Z. “Pueblo water and wastewater systems” means the water and wastewater utilities located on Pueblo Lands that provide drinking 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 wastewater systems include water sources, wells, storage tanks, controls, mainlines, valves, hydrants, meters, distribution system lines, collection lines, treatment facilities, pumping stations, mainlines, manholes, community on-site wastewater disposal systems, and storm water systems. The Pueblo water and wastewater system does not include Customer lines. The Pueblo water and wastewater systems may be referred to separately as the “Pueblo water system” and the “Pueblo wastewater system.”

AA. “Solid waste” means all refuse in solid or semisolid form including, but not limited to garbage, rubbish, ashes, street refuse, dead animals, demolition wastes, construction wastes, solid or semisolid commercial and industrial waste, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities.

BB. “Special waste” means solid waste specifically designated as special waste by regulation promulgated pursuant to the requirements of this Code. Special waste may require special storage, management, transportation, or handling pursuant to regulations issued under this Code.

CC. “Storm water system” means a system of drains and channels for carrying off

rainfall drained from paved surfaces, roofs, and the like.

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

EE. “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.

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

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec’y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec’y, April 24, 2023.

Sec. 12.5 Utility Authority; Standards

A. The Santa Clara Pueblo Utility Authority is hereby established exclusively for public purposes to assist the Pueblo in performing essential governmental functions, 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, administer, and maintain the Pueblo’s Public Utilities. In furtherance of its purpose, the Authority is authorized to develop, improve, operate, maintain, and promote existing and new Public Utility systems providing services to the Pueblo as well as operate extensions of existing and new Public Utility systems, and to provide Public Utility services to any person or business located on Pueblo Land. .

B. The Authority is authorized to enter into agreements, contracts, and understandings (collectively, "Agreements") with Contractors or any other Person in furtherance of the Authority’s purposes and operations, and the Executive Director, on behalf of the Authority, may negotiate such Agreements for approval by the Commission and execution by the Executive Director.

C. With the consent and approval of the Commission and the Tribal Council, the Authority is authorized to borrow money, issue evidence of indebtedness, and repay the same.

D. The Authority is authorized to levy and collect reasonable fees and penalties for the Utility Authority's services provided as approved and adopted by the Commission.

E. The Authority is a self-governing and independent governmental agency of the Pueblo and shall conform to Authority Budgeting & Financial Procedures & Controls; provided that until the adoption of the Authority Budgeting & Financial Procedures & Controls, and their approval by the Pueblo’s Governor and Tribal Council as part of the Authority Financial & operational Independence Plan, the Authority shall conform to the Pueblo's Procurement Code and other applicable Pueblo law, except to the extent the Authority establishes alternate policies and procedures concerning any such matters that are approved by the Tribal Council or it is expressly exempted therefrom by this Code.

F. The Authority is responsible for providing safe and adequate drinking water, the sanitary disposal of wastewater, and solid waste management on Pueblo Lands, including but not limited to solid waste collection, storage, transportation, transfer, recycling, and disposal, for a reasonable fee to those homes, businesses, and institutions located on Pueblo Lands and/or connected to the Pueblo water and wastewater systems. The Authority may provide septic pumping services for individual septic tanks. 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 and regulations.

G. The Authority is authorized to sell drinking water in bulk at the rates established by the Commission, subject to Tribal Council approval.

H. The Santa Clara Pueblo Utility Commission is hereby established to oversee the Authority in accordance with this Code.

I. There is hereby created the position of Executive Director of the Authority, who shall be an employee of the Authority and subject to the direction and supervision of the Commission.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.6 Conservation of Resources

A. The Authority shall operate, maintain, repair, and extend the Pueblo's water and wastewater systems, and manage solid waste in a manner that will maximize the conservation of resources. Customers shall be encouraged to conserve water and recycle. The Authority may provide assistance and service to Customers for water conservation and recycling as it determines is feasible.

B. The Authority shall operate, maintain, repair, and extend the Pueblo's Broadband Services, once constructed and operational, and such other Public Utilities which the Pueblo may determine to provide on Pueblo Lands, in a manner that will maximize the public benefit and prudently manage the delivery of such public services and benefits.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.7 Powers of the Commission

The Commission shall have the power and authority to:

A. Hire, supervise, discipline, and terminate the Executive Director;

B. Review and approve an annual budget for the operation of the Authority prepared by the Executive Director in conformity with the Authority Budgeting & Financial Procedures & Controls, provided that prior to the development of such Authority Budgeting & Financial

procedures & Controls and their approval by the Pueblo's Governor and Tribal Council as part of the Authority Financial and Operational Independence Plan, such budget shall be submitted to the Tribal Council in accordance with the Pueblo's budgetary process and procedures;

C. Administer oaths, conduct hearings to resolve complaints by Customers from actions of the Authority, make decisions, judgments, and determinations permitted or required by this Code, and, by subpoena, compel the attendance and testimony of persons and the production of any books, records, and papers of any Customer, and examine under oath, either orally or in writing, any Customer or agents, or any other witness;

D. Approve and adopt, based on the Executive Director's recommendations, reasonable rates, fees, and other charges for bulk and metered water, wastewater and septic pumping services, and solid waste collection and disposal services, and civil penalties for violations of Section 12-1-20 (Meters), Section 12-1-21 (Water Usage; Requirements), and Section 12-1-22 (Solid Waste) of the Code;

E. Approve and adopt, based on the Executive Director's recommendations, reasonable rates, fees, and other charges for Broadband Services, and use of other Public Utility services assigned to the Authority by the Pueblo to manage and operate on behalf of the Pueblo.

F. Adopt appropriate regulations to implement the requirements of this Code, based on the Executive Director's recommendations, including regulations related to the operation, maintenance, repair, and extension of the Pueblo's water and wastewater systems; the collection, storage, transfer, disposal, and recycling of solid waste, including regulations defining special waste and the management of special waste; and regulations concerning the use of Broadband Services and any other services of a Public Utility assigned to the Authority by the Pueblo for operation and management.

G. Review the Executive Director's recommendations for an Integrated Solid Waste Management Plan and approve such plan for submission to the Tribal Council, incorporating into such plan the Pueblo's objectives, policies, and plans for all solid waste collection, handling, transportation, disposal, treatment, storage, recycling, resource conservation, on or off Pueblo Lands, and including provisions for publicizing the plan and for periodic review;

H. Recommend to the Tribal Council proposed amendments to this Code, based on the Executive Director's recommendations or on the Commission's own initiative;

I. Make recommendations to the Tribal Council and Governor regarding the establishment and operation of additional Public Utilities by the Utility Authority on behalf of the Pueblo;

J. Gather community input on expansion of the Pueblo's water and wastewater systems, solid waste management, Broadband Services, and any other Public Utility assigned to the Authority in the future for operation and management, and related infrastructure and make recommendations to the Executive Director based on that input;

K. Review and, if deemed in the Pueblo's best interests and after taking into account the comments of the Pueblo TRPO and Cultural Committee and any additional input or approval required by Pueblo law, approve the Executive Director's recommendations for the expansion of the Pueblo's water and wastewater systems, solid waste management, Broadband System and any future Public Utility assigned by the Pueblo to the Authority for operation and management, and related infrastructure of each such Public Utilities, and notify the Pueblo's Governor and Tribal Council of such Public Utility expansion plan; provided that within 30 days following delivery of such notice, the Tribal Council may, following consultation with the Commission, override the Commission's decision on such matters and direct the Authority to take or not to take certain actions;

L. Review and approve the Executive Director's recommendations for a civil penalty schedule for violations of Section 12-1-23 (Prohibited Conduct) of this Code, for submission to the Tribal Council for the Council's review and approval;

M. Handle Customer complaints against the Authority as provided for in this Code; and

N. Perform additional tasks at the direction of the Tribal Council.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.8 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 to the implementation of this Code. The Executive Director shall draft proposed regulations for the Commission's consideration.

B. Notice. The Commission shall publish proposed regulations in order to provide interested parties an opportunity to comment. The notice will invite written comments and give a deadline for their submission not less than thirty (30) days after the publication of notice.

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 and on the Authority's website informing interested parties that the proposed regulation is available for inspection at the Authority's office and on its website. The notice shall identify the subject matter of the proposed regulations. Copies of proposed regulations shall be provided to the Governor and Tribal Council at the same time they are published.

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 Executive Director shall endeavor to provide copies of relevant regulations to affected parties.

F. Appeal. The Commission's adoption of a regulation may be appealed pursuant to Sections 12-1-30 through 12-1-31.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.9 Commission Membership; Qualifications; Quorum; Officers

A. The Commission shall be composed of five (5) voting members and one (1) non-voting member, all of whom shall be appointed by the Tribal Council. The non-voting member shall be a current member of the Tribal Council during his or her term as a Commission member. The Tribal Council shall also designate an alternate Tribal Council member to serve when the appointed non-voting member is unavailable. The Council shall appoint Commissioners by a majority vote. Current Commissioners may nominate successors for the Council's consideration. An individual may serve multiple consecutive terms on the Utility Commission.

B. To the extent practicable each voting member shall possess the level of business experience and expertise determined herein to be necessary to carry out the duties of a Commissioner and to contribute to the ability of the Utility Authority to achieve the purposes for which it is established. To the extent practicable the voting-member Commissioners shall be composed of individuals who possess skills, knowledge, and experience in the following areas:

1. Utility - One (1) Commission member shall work or have worked in the public utility industry or have obtained a degree in the utility area or related field, and have general knowledge of regulatory interfacing, local labor markets, strategic planning issues for utilities, and utility industry regulatory agencies.

Finance - One (1) Commissioner shall work, have worked, or have obtained a degree in finance, accounting or a related field, and have general knowledge of banking relationships, regulatory oversight and processes, auditing principles, generally accepted accounting principles, and recognized private, public, and managerial accounting principles.

2. General Business -Three (3) Commissioners shall work, have worked, or have obtained a degree in business and have general knowledge of business operations and management, organizational planning, capital planning, local labor markets and financial planning.

C. A quorum of the Commission shall consist of three (3) voting 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. Each voting member shall have one vote on matters coming before the Commission; a simple majority of a quorum carries any motion set to a vote.

D. The Commission shall annually elect a Chair, Vice-Chair, and Secretary-Treasurer, from among the voting members.

E. The Commission shall adopt bylaws governing meetings of the Commission, duties of the individual officers, and such other matters not inconsistent with this Code necessary and appropriate to the operation of the Commission.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.10 Terms of Office

Voting members of the Commission shall be appointed for three-year terms and shall be eligible for reappointment. The terms of such Commissioners shall, to the extent feasible, be staggered so as to maintain continuity in the Commission. The non-voting member shall be appointed each January for a one-year term and shall be eligible for reappointment so long as he or she remains on the Council. Notwithstanding the actual term of a voting-member Commissioner, each shall serve until his or her successor is duly appointed and qualified, or until his or her removal, resignation, or death. 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 Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019.

Sec. 12.11 Compensation

Commissioners shall be reimbursed for travel and other necessary and appropriate business expenses. 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 Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.12 Reporting to the Tribal Council

The Executive Director and the Commission shall make presentations at least twice a year to the Tribal Council on the Authority's budget, projects, strategic plans, Authority Revenue, grant funding received, expenditures from Authority Revenue, and other relevant information.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.13 Duties of the Executive Director

The Executive 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 wastewater systems, solid waste management, Broadband System, and

any other Public Utilities assigned by the Pueblo to the Authority for operation and management, directly or by contract, subject to the direction and oversight of the Commission.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.14 Annual Budget

The Executive Director shall prepare, for review and approval by the Commission, an annual budget for the Authority setting forth the reasonable costs of operating, maintaining, repairing, and extending the Pueblo water and wastewater systems, solid waste management, Broadband System, and systems and facilities of any other Public Utility assigned by the Pueblo to the Authority for operation and management, and their administration, personnel, liability and other insurance, a reserve for major repairs and replacements, and other costs reasonably necessary or appropriate to the functions of the Authority, all in accord with the Authority Budgeting & Financial Procedures & Controls once adopted. Prior to the adoption of such Authority Budgeting & Financial Procedures & Controls, the annual budget will be submitted to the Tribal Council for approval in accordance with the Pueblo's budgetary processes and procedures.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.15 Employees

A. The Authority shall employ necessary and appropriate personnel with appropriate drinking water and wastewater certification to carry out the operation, maintenance, repair, and extension of the Pueblo water and wastewater systems, personnel with appropriate qualifications to handle solid waste management, personnel with appropriate qualifications to operate a Broadband System and any other Public Utility systems assigned by the Pueblo to the Authority for operation and management, The Authority shall also employ such other personnel necessary and appropriate to perform the Authority's necessary bookkeeping and clerical work. All such personnel shall be under the supervision of the Executive Director.

B. All employees of the Authority, including the Executive Director, shall be employees of the Authority, and hired, promoted, demoted, disciplined, and terminated pursuant to Authority Personnel Policies and Procedures , (or during any period when such approved Authority Personnel Policies and Procedures are not in effect, the Pueblo's personnel policies and procedures), and subject to such Authority Personnel Policies and Procedures..

C. The Executive Director shall report directly to, and shall be subject to the oversight and direction of, the Commission, as provided in the Authority Personnel Policies & Procedures. Prior to the adoption of such Authority Personnel Policies & Procedures, the Chairman of the Commission or another Commissioner designated by the Commission shall approve time sheets, leave forms, and travel or any other requests that require a supervisor's signature

D. The Executive Director shall prepare job descriptions for all positions deemed

necessary and appropriate for the Authority's operations in accordance with the Authority Personnel Policies & Procedures. Pay scales for such positions shall be in conformity with such Authority Personnel Policies and Procedure. During any period approved Authority Personnel Policies and Procedures are not in effect, such actions shall be in accordance with Pueblo personnel policies and procedures. All employees shall have the same rights, benefits and responsibilities as outlined in the Authority's Personnel Policies and Procedures Manual, or during any period such Tribal Council approved policies and procedures are not in effect, the Pueblo's.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.16 Right of Entry - Inspections

The Executive 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's water and wastewater, Broadband or other Public Utility 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. After any required notice is made, the Authority may seek a Tribal Court order enforcing its right of entry and inspection. 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 Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.17 Deposits and Disbursements

A. Until the Authority Budgeting & Financial Procedures & Controls are adopted and the Authority has its own billing and accounting personnel, the Pueblo's Accounting Department shall maintain an 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 Pueblo's Accounting 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, provided that the Authority shall be included in the Pueblo's annual audit as a Governmental Agency of the Pueblo.

B. Until the Authority Budgeting & Financial Procedures & Controls are adopted and effective, 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 Pueblo's Accounting Department for processing in accordance with this Code and Pueblo policies. Thereafter, such service assessments, fees and charges shall be billed and administered in accordance with the Authority Budgeting & Financial Procedures & Controls.

C. Until the Authority Budgeting & Financial Procedures & Controls are adopted and effective, all disbursements from the Authority's account shall be in accordance with the Pueblo's procurement policies. Thereafter, such disbursements shall be made in accordance with the Authority Budgeting & Financial procedures & Controls. In either event, disbursements of Authority Revenue shall be in accordance with the Authority's Commission-approved annual budget or shall require the specific approval of the Commission.

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

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.18 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's water and wastewater systems, management of solid waste, Broadband and other Public Utility systems and equipment related thereto.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.19 Bonding and Fidelity Insurance

The Executive Director and any other person(s) designated to handle funds for the Authority shall be bonded and insured in the same manner and for the same amount(s) as required for employees in the Pueblo's Accounting Department.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.20 Water, Wastewater, and Other Public Utility Services

A. Meters. Each residence and business on Pueblo Lands that is connected to the drinking water system, or that receives water from wells on Pueblo Lands, or who receives any other Public Utility Service, unless otherwise permitted by the Commission,, is required to install a meter and pay any and all fees for services received and all other applicable charges authorized by this Code and imposed by the Commission. All meters shall be installed in accordance with the requirements of the Authority in such locations as the Authority shall direct. All such meters shall be the property of the Authority and shall be maintained by the Authority. All meters shall remain accessible to Authority personnel and no Person shall obstruct or tamper with any meter. Such obstruction or tampering shall be a violation of this Code and subject the violator to fines and actual damages under this Code.

B. Residences and businesses located on Pueblo Lands within the service area of the Authority that are not already connected to the Pueblo's water, wastewater and/or other Public Utility systems may be connected, and Pueblo members residing on private claim lands within the

exterior boundaries of the Pueblo's grant may be connected to the Pueblo's water, wastewater and/or other Public Utility systems, provided that such services are available, or can be reasonably made available, in the area where the residence or business is located.

C. Upon a decision by the Commission to extend services to non-member residences and businesses located on private claim lands within the exterior boundaries of the Pueblo's grant lands, the Authority may extend such services.

D. Each Person with a residence or business facility connecting to the drinking water system, wastewater disposal system, or other Public Utility System, as applicable, shall:

1. Have its own individual connection;
2. Not uncover, make any connections with or opening into use, alter or disturb any public water lines or appurtenances thereof without first obtaining permission from the Authority;
3. Operate and maintain facilities in a sanitary manner at all times at no expense to the Authority from wastewater main collection line to the residence and/or other structure;
4. Bear and pay all costs and expenses incidental to the installation and connection of new infrastructure lines;
5. Indemnify the Authority and the Pueblo against any loss or damage that may directly or indirectly be occasioned by the installation of such person's building infrastructure;
6. Replace any failed or damaged customer water & wastewater lines with lines of modern design as appropriate and approved by current building and plumbing code or other applicable rules and regulations of the Authority at such person's expense;
7. When feasible, bring the building wastewater line to building at an elevation below the basement floor, or when that is not feasible, lift wastewater from such line by an approved mechanical pump and discharge it to the main line; and
8. Maintain a minimum 3/4 " water service line.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.21 Water Usage; Requirements

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. During water shortages declared by the Authority, each Customer shall limit his or her use of water according to allocations established by the Authority.

C. No Person shall 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.

D. No Person shall dispose into the Pueblo wastewater system or storm system:

1. any toxic, radioactive, or otherwise hazardous waste including, but not limited to, petroleum-based oils, pesticides, gasoline, anti-freeze, solvents, paint, poisons, volatile or nonvolatile, and other waste designated as hazardous under applicable federal or Pueblo law or regulation;

2. waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, that may injure or interfere with any wastewater facility, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waste waters at any treatment works, including without limitation, cyanide in excess of two (2) mg/l such as cadmium in the waste;

3. any waters or wastes having a pH lower than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater treatment facility;

4. solid or viscous substances with a quantity or size capable of causing obstruction to the flow in wastewater lines or other interference with proper operation of the wastewater treatment facility such as without limitation ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch, manure, hair and fleshing, entrails and paper dishes, cups, milk containers, either ground or whole; or

5. any amount of the following heavy metals: antimony, arsenic, barium, beryllium, bismuth, boron, cadmium, chromium (hexa) chromium (tri), cobalt, copper, iron, lead, manganese, mercury, molybdenum, nickel, rhenium, selenium, silver, strontium, tellurium, tin, uranium, or zinc.

Dilution of toxic materials and heavy metals in lieu of removal is not acceptable.

E. No Person shall discharge or cause to be discharged any substances, materials, waters or wastes if such items may harm the wastewater treatment facility or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life limb or property, or constitute a nuisance, as determined by the Executive Director or his/her designee, including without limitation those substances, materials, waters or wastes , that are specified in Regulations adopted by the Commission or notices issued by the Executive Director.

F. If any waters or wastes are discharged or threatened to be discharged to the Authority wastewater system, in the Executive Director's judgment, that are prohibited or regulated under this Section 12-1-21 or regulations adopted by the Commission, and which in the judgment of the Executive Director or his or her designee pose the risk of a deleterious effect upon the wastewater treatment plant or system, or pose a risk of creating a hazard to persons or property or creating a nuisance, the Executive director or his or her designee may:

1. prohibit the discharge of such materials through administrative action and/or petition to the Tribal Court;
2. require pretreatment to an acceptable condition for discharge into the Authority's wastewater system;
3. require controls over the quantities and rates of discharge; or
4. require the installation of grease, oil and/or sand receptors as determined necessary in the judgment of the Executive Director or his/her designee to protect the system and function of the Authority's wastewater treatment facility and system.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.22 Solid Waste

Every dwelling, residence, premises, business establishment on Pueblo Lands, shall be maintained in a sanitary condition.

A. Every Person on Pueblo Lands shall properly store, transport, and dispose of solid waste (without allowing solid waste to accumulate), including special waste as established by regulation pursuant to this Code, only in a manner authorized by this Code.

B. Persons who violate the provisions of this Section are subject to civil penalties imposed by the Authority pursuant to a schedule approved and adopted by the Commission.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.23 Broadband and Other Public Utility Systems

A. Any person receiving Broadband or other Public Utility Services on Pueblo Lands shall conform their usage of such services to the regulations and other rules for connecting to and

using such services promulgated by the Commission.

B. No person receiving Broadband or other Public Utility Service from the Authority shall allow and other person who is not a Customer of the Authority to access or use such service without prior approval of the Authority.

C. Persons who violate the provisions of this Section are subject to civil penalties imposed by the Authority pursuant to a schedule approved and adopted by the Commission.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.24 Prohibited Conduct

A. Prohibited Conduct. It is unlawful for any Person to:

1. dispose of any solid waste anywhere on Pueblo Lands except as expressly permitted in this Code or regulations promulgated pursuant to this Code;
2. dispose of or discharge solid waste into any creek, river, tributary, ditch, other water conveyance system, lake, or pond on Pueblo Lands;
3. burn any solid waste anywhere on Pueblo Lands, except as specifically authorized by permit from the Governor;
4. engage in the uncontrolled, unauthorized, or unsafe removal of solid waste from disposal containers, transfer stations, or Authority vehicles;
5. permit a dwelling, residence, premises, business establishment to become dangerous or to impair the safety, health, or comfort of the public as the result of the accumulation, handling, storage, treatment, or disposal of solid waste.

B. Citations. A Law Enforcement Officer or Conservation Officer, as defined under Title VII of the Santa Clara Pueblo Tribal Code, may issue citations and civil penalties for violations of this Section, pursuant to a civil penalty schedule approved by the Tribal Council under this Code. Such citations must inform the violator of the option to pay the civil penalty or to appear before the Tribal Court at a time and place identified in the citation. If the Tribal Court determines that a person violated this Code, the Tribal Court may assess a civil penalty in accordance with the schedule of civil penalties approved by the Tribal Council under this Code.

C. Criminal Penalties. In addition to any other penalties allowed under this Code, any Indian who violates any of the prohibitions in this Section shall be guilty of a crime and, upon conviction thereof, may be sentenced to confinement for a period of not more than one year or to

pay a fine of not more than \$5,000.00 or both, with costs.

D. Enforcement against Non-Members. In addition to any applicable civil or criminal penalties, any person who is not a member of the Pueblo who violates this Title may be considered to be trespassing on Pueblo Lands and subject to removal and exclusion.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.25 Effective Dates for Rates and Civil Penalties: Notice to Customers

A. Fee schedules for rates, fees, and other charges for bulk and metered drinking water, wastewater, solid waste collection and disposal services, Broadband Services, and any other Public Utility service, and a civil penalty schedule for violations of Section 12-1-20 (A) (Meters), Section 12-1-21 (Water Usage; Requirements), Section 12-1-22 (Solid Waste), and Section 12-1-23 (Broadband and Other Public Utility Systems) will become effective upon their approval by resolution of the Commission or on the date specified in the resolution.

B. A civil penalty schedule for violations of Section 12-1-24 (Prohibited Conduct) of this Code will become effective upon approval by the Tribal Council or the date specified in the resolution.

C. The Authority shall post all such fee schedules and penalty schedules and shall mail or e-mail a copy to each Customer at least thirty (30) days prior to the date the schedule takes effect.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.26 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. Pending Tribal Council approval of the Authority Budgeting & Financial Procedures and Controls as part of the Authority Financial and Operational Independence Plan, payments shall be made to Santa Clara Pueblo as payee, but submitted to the Authority. The Authority shall submit all payments received to the Pueblo's Accounting Department for deposit into the Authority's account maintained by the Pueblo's Accounting Department. Once the Authority's Budgeting & Financial Procedures & Controls are adopted and effective, payments shall be made to and administered by the Authority.

C. If a properly billed charge is not paid within thirty (30) days after the due date the account shall be declared delinquent. The Authority shall immediately notify the Customer in writing that the 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 Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.27 Condition for Services; Sanctions for Non-Compliance by Customers

A. As a condition for receiving services from the Authority, Customers shall comply with all provisions of this Code, and any regulations duly adopted by the Commission, as well as any other applicable codes or regulations, and shall remain current in the payment of all fees, penalties, costs, damages, or other charges assessed by the Authority.

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

1. Terminate service(s) (but subject to Section 12-1-25(D));
2. Assess fees based on a schedule adopted by regulation of the Commission;
3. Assess a civil penalty for violations of Section 12-1-20 (A) (Meters), Section 12-1-21 (Water Usage), Section 12-1-22 (Solid Waste), and 12-1-23 (Broadband and Other Public Utility Services) based on a civil penalty schedule adopted by the Commission;
4. Assess damages resulting from the Person's non-compliance;
5. Declare a forfeiture of all or part of a Customer's deposit;
6. Refer violations of Section 12-1-24 (Prohibited Conduct) to the Santa Clara Pueblo Tribal Police Department;
7. File suit for damages in a court of competent jurisdiction; and
8. 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 Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the

Sec. 12.28 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 Executive Director. If the Executive Director cannot resolve the complaint within ten (10) working days after receiving the complaint, the Executive 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 thirty (30) 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 12.29 through 12.31.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.29 Finality of Commission Decisions

If no appeal is timely made to the Tribal Court pursuant to Section 12.31, a decision by the Commission will be final, binding, and enforceable, and will not be subject to review by any court or tribunal. Nothing in this section shall limit the Tribal Council's power pursuant to Section 12.7 K., with good cause, to override a decision by the Commission regarding matters related to the expansion of the Pueblo water and wastewater system, solid waste management, Broadband, other Public Utilities, and related infrastructure and to direct the Authority to take or not to take certain actions.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.30 Sovereign Immunity; Appeals

A. The Tribal Council hereby waives the sovereign immunity of the Commission and the Authority for the express, sole, and limited purposes of allowing review of the Commission's actions or decisions by the Tribal Court as provided for in this Code, provided, that any such appeal 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 may waive its sovereign immunity in contract or otherwise only with the express written approval of the Tribal Council.

Enacted by Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.

Sec. 12.31 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 action or decision and the specific decision or regulation being appealed. A filing fee equal to the court's fees for filing a civil action shall accompany the Notice. The party appealing the action or decision must serve a copy of the Notice of Appeal on the Authority and the Commission, care of the Executive 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 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 Res. 2019-044, July 26, 2019; approved by the Sec'y, November 15, 2019; amended by Res. 2023-28, March 3, 2023; approved by the Sec'y, April 24, 2023.