

OHKAY OWINGEH LAND USE AND DEVELOPMENT CODE



INTRODUCTION

LAND USE AND DEVELOPMENT CODE

Relationship to the Master Plan

The code defines the approval process and gives the regulations legal 'teeth'. The master plan provides the content, including rules for planning and design.

The two documents will work together, and have the force of law when adopted by Tribal Council.

Code Summary

Section 1: General Provisions

- Includes purposes, duration, applicability, approvals, relation to masterplan, and incorporation of building codes.
- Roles are defined for Governor, Council, Planning Department and Planning Review Committee.

Section 2: Development Districts and Uses

- Establishes development code categories (zones) by reference to the master plan.
- Establishes allowable, conditional, and prohibited uses in each category.

Section 3: Development Standards

- Incorporates the Master Plan by reference for rules about: general standards, streets and alleys, compounds, fences and walls, and landscaping.
- Establishes new regulations for: parking standards, signs, mixed uses, trash collection, home occupations, and non-conformities.

Section 4: Development Approvals and Permit

- Includes permits and approvals, public hearing and notice, variances, appeals, boundaries, and fees.

Section 5: Development Review Process

- Includes approvals, public hearing and notice, variances, appeals, boundaries, and fees.

Section 6: Building Permits

- Includes permits and approvals.

Section 7: Enforcement

- Includes duties of planning director and other officials.
- Responses to unlawful acts and public nuisances.

Section 1: General Provisions

1.1 Purpose. The purpose of this Land Use and Development Code is to implement the Land Use Master Plan for Ohkay Owingeh, promote the health, safety and general welfare of Pueblo residents, and achieve the following goals and objectives:

- 1.1.1 Ensure use of land that is sensitive to its physical and aesthetic nature;
- 1.1.2 Protect and reinforce traditional Pueblo lifestyles and culture;
- 1.1.3 Establish residential areas where people may live in a wholesome environment;
- 1.1.4 Provide properly planned community facilities, roads, utilities, and other infrastructure;
- 1.1.5 Ensure that adjacent land uses are functionally and aesthetically compatible;
- 1.1.6 Provide for economic development opportunities that benefit the Pueblo and its members.

1.2 Duration. The Land Use & Development Code shall remain in effect until a new or revised Land Use & Development Code is adopted. From time to time, the Code shall be updated and amended as appropriate.

1.3 Applicability.

- 1.3.1 This Code applies to all land owned or under the jurisdiction of the pueblo or its entities and by pueblo members within the exterior boundaries of the San Juan Pueblo Land Grant.
- 1.3.2 This Code applies to all development and changes in use initiated after formal adaptation of this code by Tribal Council, except as provided in Section 3.15 (Non-conformities) and Section 2.5.6 (addresses manufactured housing).

1.4 Master Plan. The Land Use Master Plan for Ohkay Owingeh (known as the Master Plan) shall serve as a guide to all development and infrastructure projects. Compliance with certain of its provisions shall be required as described in this Code. The Master Plan is incorporated by reference into this Code. If the standards or allowable uses in this Code conflict with standards or allowable uses in the Master Plan, the provisions of this Code shall apply.

1.5 Governor. The Governor shall be responsible for planning and development within the Pueblo, with advice and assistance from the Tribal Council, Planning Review Committee, and Planning Department.

1.6 Tribal Council. The Tribal Council shall advise the Governor on planning and development issues and make decisions or recommendations as required by this Code.

1.7 Planning Review Committee

- 1.7.1 **Creation.** A Planning Review Committee shall be appointed by the Tribal Council. Once established, the Planning Review Committee shall undertake duties as described in this Code.
- 1.7.2 **Membership.** The Planning Review Committee shall consist of seven members.
- 1.7.3 **Responsibilities.** The Planning Review Committee shall have the following responsibilities:
 - 1.7.3.1 Review and make recommendations on approval of the Master Plan amendments and updates;
 - 1.7.3.2 Review and make recommendations on approval of the Land Use and Development Code amendments and updates;
 - 1.7.3.3 Make decisions or recommendations as required by this Code; and
 - 1.7.3.4 Conduct planning studies as requested by the Governor.
- 1.7.4 **Adopting Rules.** The Planning Review Committee may adopt rules for carrying out its responsibilities.

1.8 Planning Department

- 1.8.1 **Creation.** A Planning Department is created to undertake duties as described in this Code.
- 1.8.2 **Planning Director.** The Planning Department shall be managed by a Planning Director.
- 1.8.3 **Responsibilities.** The Planning Department shall have the following responsibilities:
 - 1.8.3.1 Conduct the daily planning activities of the Pueblo;

1.8.3.2 Review and make recommendations to the Planning Review Committee on amendments to the Master Plan and this Code;

1.8.3.3 Make decisions or recommendations as required by this Code;

1.8.3.4 Conduct planning studies as requested by the Planning Review Committee or Governor; and

1.8.3.5 Undertake other planning responsibilities as directed by the Governor.

1.8.4 **Additional Initial Responsibilities.** The Planning Department shall assume the responsibilities and authority of the Planning Review Committee until the committee is established or when the membership of the Committee is fewer than four members.

1.9 Building and Other Codes

1.9.1 This Code adopts the following technical codes by reference and incorporates them into this Code.

1.9.1 International Building Code;

1.9.2 International Residential Code;

1.9.3 Plumbing Code;

1.9.4 Uniform Mechanical Code;

1.9.5 National Electrical Code;

1.9.6 National Electrical Safety Code;

1.9.7 International Energy Conservation Code;

1.9.8 International Existing Building Code; and

1.9.9 Uniform Solar Energy Code.

1.9.2 The latest published edition of these codes as adopted by the State of New Mexico shall apply. If a code has not been adopted by the State of New Mexico, the latest published edition shall apply.

1.9.3 The building official referred to in these codes is the Planning Director or his or her designee.

1.10 Land Assignments

1.10.1 The Tribal Realty Office manages and distributes Land Assignments.

1.10.2 Tribal land available for assignment shall be identified on a Land Assignment Map. Tribal land identified as in-fill parcels, compounds (see the Master Plan), and areas designated for development shall be a priority for land assignments.

1.10.3 Land Assignments to members of the Pueblo and any new development or use upon them shall be consistent with the Master Plan.

1.10.4 Land Assignments to members of the Pueblo shall be in writing and shall describe the boundaries of the assigned parcel with as much accuracy as possible.

1.10.5 The Land Assignment shall describe the responsibilities and obligations of the assignee, identify the development district and lot type, and indicate the regulations, guidelines, and relevant Code provisions.

1.10.6 Use Restrictions:

1.10.6.1 **Relationship to this Code.** This Code cannot legally allow any use that is prohibited in the Land Assignment but may restrict a use that is allowed in the Land Assignment.

1.10.6.2 **Use of Property by Non-Tribal Members.** All members and entities of the Pueblo shall obtain approval from the Governor and Tribal Council before renting, leasing or lending buildings, houses, or land under their ownership or control and within the jurisdiction of the Pueblo to non-members of the Pueblo for temporary or permanent use.

1.11 Approvals.

1.11.1 Building permits are required to ensure compliance with all building code and other technical code provisions. Building code provisions are found at Section 6.

1.11.2 A development approval or permit is required to ensure compliance with the allowable use provisions (Section 2) and land development regulations (Section 3) as set forth in this Code. Development approval or permit provisions are found at Section 4.

installed on any lot type if installed prior to January 1, 2010.

Section 2: Development Districts and Uses

- 2.1 Purpose.** The Master Plan recognizes that certain types of uses and development standards are more suitable in certain areas than in other areas. The development code districts reflect these differences.
- 2.2 Districts Established.** The following development code categories or districts, as described in the Master Plan, are established:
 - 2.2.1 PC – Pueblo Central;
 - 2.2.2 PG – Pueblo General;
 - 2.2.3 PR – Pueblo Rural;
 - 2.2.4 CM – Commercial Marketplace;
 - 2.2.5 CW – Commercial Workplace;
 - 2.2.6 NCP – Natural and Cultural Preserve;
 - 2.2.7 AP – Agriculture Preserve;
 - 2.2.8 R – Reserve.
- 2.3 Districts Mapped.** The development code districts are as shown on Figure _____, Development Code District Map, in the Master Plan. This map may be amended by the Tribal Council using the procedures set forth in this Code for Tribal Council decisions.
- 2.4 Lot Types.** The following residential lot types are established.
 - 2.4.1 Single Family: Allowable density is one house and two accessory dwellings per lot, each no larger than half the footprint of the main house. Mobile homes are not permitted. Private open space measuring 15’ by 15’ min. is required for each primary dwelling.
 - 2.4.2 Compound. Lots are grouped in sets of 3 to 5, with shared access and a common court. Allowable density is one house per lot. Mobile homes are permitted. Private open space measuring 6’ by 10’ min. is required for each primary dwelling.
 - 2.4.3 Multifamily: Mobile homes are not allowed. Private open space measuring 6’ x 10’ min. is required for each dwelling. Open space may be satisfied with a balcony, deck or yard.
- 2.5 Uses**
 - 2.5.1 All uses that are illegal according to the laws of the Pueblo are prohibited.
 - 2.5.2 Allowable uses are set forth in Table 2 below.
 - 2.5.3 The following letters or symbols apply in the table below:
 - 2.5.3.1 An “A” means the use is allowed, but the development still requires an administrative approval (see Section 4.3);
 - 2.5.3.2 A “D” means a Departmental Permit is required (see Section 4.4);
 - 2.5.3.3 A “P” means a Planning Review Committee Permit is required (see Section 4.5);
 - 2.5.3.4 A “T” means a Tribal Council Resolution is required (see Section 4.6);
 - 2.5.3.5 An “X” means the use is not allowed.
 - 2.5.4 Any use not listed is prohibited in all development districts, unless the Planning Director makes a determination that it is similar in operational characteristics and impacts to a use that is listed. A record of such decisions shall be maintained in the Planning Department and made easily accessible to pueblo members and other interested parties.
 - 2.5.5 In addition to the prohibited uses shown in Table 2, a mobile home that is not on a permanent foundation and does not comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Section 5401) is prohibited.
 - 2.5.6 Manufactured housing shall be allowed as only as provided in Section 2.4 and Table 2 except that manufactured housing may be

Table 2: Allowable Uses in Each Development District

Use	Development Districts								Special Provisions
	PC	PG	PR	CM	CW	NCP	AP	R	
Agriculture	X	X	X	X	X	X	A	A	Home gardens allowed in all residential districts
Veterinary Clinics	X	X	X	A	A	X	X	X	Does not include keeping animals overnight
Animal Boarding	X	X	D	D	D	X	A	X	Includes sheep, goats, pigs, cattle, horses and similar animals
Businesses Animal Raising & Family Farms	X	X	A	X	X	X	A	A	
Arts and Crafts	A	A	A	A	A	A	X	X	Includes creation and sale Personal auto repair & garage allowed in all districts
Automotive Repair Shop	X	X	D	D	A	X	X	X	
Billboards	X	X	X	X	P	X	X	X	Includes children and elderly
Civic	T	T	T	T	T	T	X	X	
Cellular Towers	X	X	X	X	T	X	X	X	
Cemeteries	T	T	T	X	X	T	T	T	
Day Care	A	A	A	A	A	X	X	X	
Filling Station	X	X	X	P	D	X	X	X	Includes facilities that dispense gasoline, diesel, natural gas, hydrogen, or electricity for the purpose of propelling vehicles
Gaming Casinos	X	X	X	T	T	X	X	X	Includes meeting rooms and conference facilities
Health Care	P	P	P	P	P	X	X	X	
Hotels and Motels	X	X	X	P	P	X	X	X	
Offices, Commercial	X	X	X	A	A	X	X	X	See Section 2.4 and Section 2.5.6
Offices, Home	A	A	A	D	D	X	X	X	
Recreation Facilities	A	A	A	D	D	A	X	A	
Research and Development Residential	X	D	D	X	X	X	X	X	See Section 2.4 and Section 2.5.6
– Manufactured Housing Residential – Multi- Family (3 units or more per building)	T	T	X	D	D	X	X	X	
Residential – Single- Family	A	A	A	X	X	X	X	X	Such as large scale wind, solar facilities, etc.
Residential – Two- Family (Duplex)	A	A	D	D	D	X	X	X	
Restaurants	T	X	X	A	A	X	X	X	Such as large scale wind, solar facilities, etc.
Retail Stores – less than 10,000 s.f.	T	X	X	D	A	X	X	X	
Retail Stores – 10,000 s.f. or more	X	X	X	P	P	X	X	X	
Storage Facilities – Personal Storage Facilities– Commercial Utilities, Major	X	X	X	P	D	X	X	X	Such as large scale wind, solar facilities, etc.
Warehousing Wholesaling	X	X	X	P	D	X	X	X	

Section 3: Development Standards

- 3.1 Purpose.** The purpose of the development standards is to ensure that development is safe, serves the best interest of the Pueblo, and helps implement the Master Plan.

3.2 General Standards. Building placement and height, parking, building frontages, fences and walls, building openings and details, roofs, and landscaping shall comply with the following:

- 3.2.1 Development standards for the PC, PG, and PR development districts shall be as set forth in the Master Plan;
- 3.2.2 Development standards for the CW development district shall be as set forth for the Commercial–Work Place description in the Master Plan;
- 3.2.3 Development standards for the CM development district shall be as set forth for the Commercial–Market Place description in the Master Plan;
- 3.2.4 Development standards for the NCP, AP, and R Development Code Districts shall be determined by the Planning Director, using the Master Plan as a guide.

3.3 On-Site Parking. In addition to the requirements for parking in the Master Plan, the following provisions apply to multi-family residential and commercial uses.

3.3.1 Parking spaces shall be provided as follows:

Use	Number of Spaces
Residential units and guest houses with one bathroom	1
Residential units with more than one bathroom	2
Commercial & Retail Establishments	2.5 per 1,000 s.f. of gross floor area
Restaurants	1 per each 4 seats
Hotels & Motels	1 per room
Other Uses	To be determined by Planning Director

- 3.3.2 Parking spaces shall be designed to serve multiple uses whenever possible. When this is not possible or practical, all on-site parking facilities shall be located on the same lot as the use that they serve unless approved off-site parking is approved by the Planning Director.
- 3.3.3 The minimum size of an automobile parking space shall be eight feet wide and 18 feet deep.
- 3.3.4 The surface of the parking areas containing more than 10 spaces shall minimize blowing dirt and dust. Permeable surfaces are preferred.
- 3.3.5 Parking areas shall contain a maximum of 60 vehicle spaces. Where more parking spaces are required, multiple lots may be separated by streets and/or landscaping. Such landscaping shall be a minimum of six feet in width, be planted with a vegetative ground cover, and contain shade trees spaced a minimum of 20 feet apart.
- 3.3.6 Parking areas shall implement water runoff control measures to mitigate erosion and pollution.
- 3.3.7 Parking areas shall be screened from adjacent residences by walls, berms, or a combination of walls and berms, that are a minimum of three feet and a maximum of four feet in height.

3.4 Streets and Alleys.

- 3.4.1 Streets shall be categorized into one of the following types, with page references to MAsterplan:
 - 3.4.1.1: Through Street, 70' R.O.W., p. 24, Primary routes such as Popay Avenue and HWY 74
 - 3.4.1.2: Through Street, 54' R.O.W., p. 25, Primary routes through developed areas
 - 3.4.1.3: Slow Street, 50' R.O.W., p. 26, Typical neighborhood streets
 - 3.4.1.4: Rural Lane, 40' R.O.W., p. 27, Rural roads through low density areas where on-street parking is not needed.
 - 3.4.1.5: Pueblo Lane, 36' R.O.W., p. 28, Shared use streets through traditional areas of the pueblo center.
 - 3.4.1.6: Commercial Mainstreet, 94' R.O.W., p. 29, A retail street, with diagonal parking and planted median.
 - 3.4.1.7: Commercial Broadway, 70' R.O.W., p. 30, Primary routes through commercial areas, includes center turn lane
 - 3.4.1.8: Commercial Sidestreet, 50' R.O.W., p. 31, Typical street through commercial and mixed use areas.
 - 3.4.1.9: Alley, 20' R.O.W., p. 32, Provides access to rear of buildings.

- 3.4.2 Streets shall be designed according to the applicable provisions in the Master Plan.
- 3.4.3 Alleys shall be designed according to the applicable provisions in the Master Plan.
- 3.4.4 A Road Cut permit shall be obtained from tribal authorities prior to any alteration of the road surface.

3.5 Compounds. Compounds, as described in the Master Plan, are encouraged. Development standards may be modified by the Planning Review Committee in order to achieve a flexible design, consistent with the purpose of this Code.

3.6 Fences and Walls.

3.6.1 The development standards for fences and walls (see Section 3.2 above) shall apply in all but the AP District. Design concepts found in the Master Plan are recommended, but not required.

3.7 Landscaping. The development standards for landscaping (see Section 3.2 above) shall apply. Design concepts found in the Master Plan are recommended, but not required.

3.7.1 Parking areas shall contain a minimum of one shade tree for each 10 parking spaces. The Planning Director shall approve the species and location of the trees.

3.7.2 New plazas and parks shall contain shade trees spaced a minimum of 20 feet apart.

3.7.3 A plan for maintenance of landscaping in common areas shall be submitted for approval along with the application.

3.8 Arroyo Protection. All development shall be set back a minimum of 50 feet from the top of natural arroyo banks.

3.9 Lighting. Lighting for all multi-family residential buildings, buildings containing both residential and non-residential uses, and commercial buildings shall comply with the following provisions.

3.9.1 Exterior Fixtures.

3.9.1.1 Lighting fixtures shall be architecturally compatible with the character of the surrounding structure(s).

3.9.1.2 Lighting fixtures shall be appropriate in height, intensity and scale to the use they are serving.

3.9.1.3 Generally, pole mounted fixtures shall be low in height (up to 24 feet) and be equipped with light shields to reduce or eliminate light spillage beyond the project's boundaries.

3.9.1.4 Lighting fixtures shall be energy efficient.

3.9.2 Intensity.

3.9.2.1 Parking areas shall have a light level at the ground surface at the base of the light fixture of between two and five foot-candles.

3.9.2.2 Pedestrian courts, plazas, and walkways shall have a light level at the ground surface of between one and two foot-candle.

3.9.2.3 Building-mounted decorative lights shall not exceed five foot-candles, measured five feet from the light source.

3.9.3 Security Lighting. Security lighting shall be provided in the CW and CM Development Code districts. This lighting shall have a light level at the ground level of the entrance of between two and three foot-candles.

3.9.4 Shielding. If the light source is visible from outside the project boundary, shielding shall be required to reduce glare so that neither the light source nor its image from a reflective surface shall be directly visible from any point five feet or more beyond the project boundary. This sub-section does not apply to single-family residential uses, traffic safety lighting, or public street lighting.

3.10 Signs

3.10.1 Within the PC, PG, PR, NCP, and AP Development Code Districts, non-residential uses are allowed one sign not to exceed 12 square feet.

3.10.2 Within the CM, CW, or R Development Code Districts, the following signs are allowed.

3.10.2.1 Each business, with the exception of a casino, shall be allowed signs equal to one square foot per each linear foot of business frontage, not to exceed a total of 30 square feet. The size of casino signs shall be approved by the Planning Review Committee.

- 3.10.2.2 Multi-use projects consisting of three or more businesses shall be allowed one business directory sign at each external street entrance to the project, not to exceed two such signs. The sign(s) shall be a monument sign (a freestanding sign whose base is within 12 inches of the ground). The sign(s) shall not exceed 45 square feet in area and five feet in height.
- 3.10.3 Home occupation signs are allowed in any Development Code district, but are limited to eight square feet and shall not be lighted.
- 3.10.4 Letters on signs shall be large enough and have adequate contrast with the background to be readable by the average viewer traveling at the legal speed limit.
- 3.10.5 All signs and their supporting structure shall be well-maintained.
- 3.10.6 Political signs are allowed but shall be removed within five days immediately following the final election to which the sign relates.
- 3.11 Performance Standards.** Any use or activity that results in an adverse impact to the character and environment of a surrounding area by producing repeated and consistently intolerable levels of air pollution, electrical or electronic disturbance, hazardous materials, glare, noise, odor, vibration, waste products, or similar disturbances, shall be prohibited. Specific conditions on development or use may be imposed as part of the approval of the development to ensure that this result is achieved.
- 3.12 Mixed Uses.** Mixed uses, a combination of residential and non-residential uses in the same building or on the same parcel, are encouraged where appropriate. The following provisions apply to mixed uses:
 - 3.12.1 Non-residential and residential uses shall not have common entrances or common balconies.
 - 3.12.2 Commercial uses shall be designed and operated, and hours of operation limited, where appropriate, so that neighboring residents are not exposed to offensive noise, especially from traffic, routine deliveries, or late night activity. No use shall produce continual loading or unloading or heavy trucks at the site between the hours of 8 pm and 6 am.
 - 3.12.3 Residential portions of the building or parcel shall be designed to limit the interior noise caused by the commercial and parking portions of the building.
 - 3.12.4 No use, activity or process shall produce continual vibrations or noxious odors that are perceptible without instruments by the average person at the property lines of the site and within the interior of residential units on the parcel.
 - 3.12.5 Outdoor lighting associated with commercial uses shall not adversely impact surrounding residential uses, but shall provide sufficient illumination for access and security purposes. Such lighting shall not blink, flash, oscillate, or be of unusually high intensity or brightness.
- 3.13 Trash Collection and Recycling.**
 - 3.13.1 All multi-family residential buildings, buildings containing both residential and non-residential uses, and commercial buildings shall provide facilities for trash collection and facilities for recycling if the Pueblo has a program to collect recyclable materials.
 - 3.13.2 Separate residential and non-residential trash storage facilities shall be maintained for buildings that contain both residential and non-residential uses.
- 3.14 Home Occupations.** Home occupations shall comply with the following provisions:
 - 3.14.1 Any legal residence may be used for a home occupation.
 - 3.14.2 All home occupations shall be registered and permitted by tribal authorities.
 - 3.14.3 The repair or modification of automobiles, trucks, motorcycles, and similar types of vehicles or equipment is prohibited as a home occupation except in the PR District.
 - 3.14.4 Any home occupation that requires or uses, or expects to receive materials or supplies, from a vehicle of over three tons is prohibited.
 - 3.14.5 No more than two people in addition to the occupants of the residence may work at the home occupation.
 - 3.14.6 The business shall be conducted entirely indoors unless approved otherwise by the Planning Director. No equipment or materials shall be stored outdoors overnight except for one vehicle used in conjunction with the business.

3.15 Non-conformities.

- 3.15.1 A use that was legal before the adoption of this Code but is not allowed by this Code may be continued, but the size of the use or the space it occupies shall not be enlarged or increased. If the use is discontinued for a consecutive six-month period, it shall not be resumed.
- 3.15.2 A building that was legal before the adoption of this Code but is not allowed or does not meet the standards of this Code may be continued but shall not be expanded unless the new portion of the building meets the standards of this Code whenever possible. If the building is substantially destroyed, it may not be rebuilt unless it meets the standards of this Code. The Planning Director may relax the provisions of this subsection by exempting the application of some or all of the codes listed in Section 1.9 for buildings that have historic significance.

Section 4: Development Approvals and Permits

- 4.1 Approvals.** Any person or entity having a Land Assignment, leasing land, or owning land within the area to which this Code applies pursuant to Section 1.3 and who intends to conduct any of the following activities is required to obtain a development approval or permit as set forth in this section.
 - 4.1.1 Constructing a primary structure for any use;
 - 4.1.2 Constructing a secondary structure over 200 square feet;
 - 4.1.3 Enlarging the enclosed portion of an existing structure;
 - 4.1.4 Moving any structure over 200 square feet;
 - 4.1.5 Using a property for a new use listed in Table 2;
 - 4.1.6 Converting a property from a use designated "A", "D", "P", or "T" to a use designated "D", "P", or "T" in Table 2.
- 4.2 Responsibilities.** An individual who is involved with any building or construction project has the responsibility to check with the Planning Department to determine which of the following development permits are required.
- 4.3 Administrative Approval**
 - 4.3.1 Purpose. The purpose of an administrative approval is to ensure compliance with the standards in this Code.
 - 4.3.2 When Required. An administrative approval is required for all activities described in Section 4.1 unless otherwise exempted or when another type of permit is required by the following subsections.
 - 4.3.3 Who Grants. An administrative approval is granted by the Planning Director or his or her designee.
 - 4.3.4 Process. Submittal requirements are contained in Section 5.3. No hearing is required. The decision of the Planning Director cannot be appealed because the decision shall be based solely on whether the proposed development meets the technical standards of this Code.
- 4.4 Departmental Permit**
 - 4.4.1 Purpose. The purpose of a departmental approval is to ensure that the development complies with the intent of this Code and the Master Plan, as well as the standards in this Code.
 - 4.4.2 When Required. A Departmental Permit is required for all projects containing one or more uses indicated by the letter "D" in Table 2. It is also required for grading prior to installation of manufactured housing and for ensuring that the manufactured housing complies with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Section 5401).
 - 4.4.3 Who Grants. A Departmental Permit is granted by the Planning Director or his or her designee.
 - 4.4.4 Processing. No hearing is required. The decision of the Planning Director may be appealed to the Planning Review Committee.
- 4.5 Planning Review Committee Permit**
 - 4.5.1 Purpose. The purpose of a planning committee permit is to ensure that the development complies with the intent of this Code and the Master Plan, as well as the standards in this Code, and is of such significance or impact that it should be approved at a higher level than by the Planning Department.
 - 4.5.2 When Required. A planning committee permit is required for all projects containing one or more uses indicated by the letter "P" in

Table 2.

- 4.5.3 Who Grants. A Planning Review Committee Permit is granted by the Planning Review Committee.
- 4.5.4 Processing. A hearing is required and shall be conducted by the Planning Review Committee according to Section 5.4. Other procedural provisions of Section 5 also shall apply. The decision of the Planning Review Committee may be appealed to the Tribal Council.

4.6 Tribal Council Resolution

- 4.6.1 Purpose. The purpose of a Tribal Council Resolution is to ensure that the development complies with the intent of this Code and the Master Plan, as well as the standards in this Code, and is of such significance or impact that it should be approved at a higher level than by the Planning Department or Planning Review Committee.
- 4.6.2 When Required. A Tribal Council Resolution is required for all projects containing one or more uses indicated by the letter "T" in Table 2.
- 4.6.3 Who Grants. A Tribal Council Resolution is adopted by the Tribal Council.
- 4.6.4 Processing. After adoption, the written resolution shall be made available to the public.

- 4.7 Other Decisions. The Planning Director shall have the authority to make other decisions called for in this Code unless the Code specifically grants this authority to someone else.

Section 5: Development Review Process

- 5.1 Purpose and applicability. The purpose of this section, Development Review Process, is to provide a process for issuing all development approvals and permits required by this Code; it does not apply to Building Permits. Development approvals and permits include the approval of the development and the uses for which the development is to be used.

5.2 Initiation of Process

- 5.2.1 Assistance. All persons or entities seeking to develop, improve or otherwise alter their property as indicated in this Code, regardless of who has final approval authority, shall initiate an application and receive assistance from the Planning Department.
- 5.2.2 Pre-Application. A pre-application meeting shall be held with the Planning Director or his or her designee when a Departmental Permit, Planning Review Committee Permit, or Tribal Council Permit is required. At or subsequent to this meeting, the Planning Director shall inform the applicant as to additional information required to be submitted with the application.

5.3 Submittal Requirements

- 5.3.1 Complete Applications. Applications for approvals or permits shall be made on a form provided by the Planning Department. No application shall be considered complete until the application is determined to be complete and all required fees have been paid.
- 5.3.2 Administrative Approvals. The following material shall be submitted with the completed application form for an administrative approval:
 - 5.3.2.1 A copy of the Land Assignment or lease;
 - 5.3.2.2 Plans sufficient to show compliance with this Code.
- 5.3.3 Development Permits. The following information shall be submitted with the completed application form, unless determined by the Planning Director to be unnecessary, for a Departmental Permit (except for a manufactured home approval), Planning Review Committee Permit, or Tribal Council Permit:
 - 5.3.3.1 Copy of the Land Assignment or lease;
 - 5.3.3.2 Vicinity map;
 - 5.3.3.3 Diagram and dimensions of site, drawn to scale;
 - 5.3.3.4 Location of existing and proposed building footprints;
 - 5.3.3.5 Location of existing and proposed vehicular and pedestrian circulation patterns;

- 5.3.3.6 Landscape plan, to include location of any existing trees;
- 5.3.3.7 Grading and drainage plan;
- 3.3.3.8 Location and size of existing and proposed water and sewer lines;
- 5.3.3.9 Lighting plan;
- 5.3.3.10 Other information as required by the Planning Director needed to make an informed decision.

- 5.3.4 Manufactured Homes. The following information shall be submitted with the completed application form for a Departmental Permit for a manufactured home.

- 5.3.4.1 Copy of the Land Assignment or lease;
- 5.3.4.2 Diagram showing the location of the home on the site;
- 5.3.4.3 A certificate that the manufactured housing complies with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Section 5401).

5.4 Hearings and Notice. Any hearing required by Section 4 or another provision of this Code shall conform to the following procedures:

- 5.4.1 The hearing shall be open to the public.
- 5.4.2 The applicant or the person appealing a decision shall be notified of the hearing in writing not less than 10 days before the hearing.
- 5.4.3 A notice of the hearing shall be posted on the "Official Notice Board" of the Planning Department.
- 5.4.4 The applicant shall notify all people, in writing not less than 10 days before the hearing, who have a Land Assignment or lease within 500 feet of any project requiring a Planning Review Committee Permit or Tribal Council Permit.
- 5.4.5 A staff report with a recommendation shall be provided to the members of the body holding the hearing, to the applicant or person appealing a decision, and to any other person expressing a written interest in the decision.
- 5.4.6 A decision may only be made if at least 51% of the members of the body are present at the hearing.
- 5.4.7 A decision requires a majority vote of the body holding the hearing.
- 5.4.8 After a decision is made, the result, in writing, shall be provided to the applicant or person appealing a decision.

5.5 Appeals

- 5.5.1 Decisions made by the Planning Director may be appealed by the applicant or any Pueblo official to the Planning Review Committee.
- 5.5.2 Decisions made by the Planning Review Committee may be appealed by the applicant or any member of the Tribal Council to the Tribal Council.
- 5.5.3 All appeals shall be in writing and shall state the exact reasons why all or part of the decision should be overturned.
- 5.5.4 The Planning Review Committee shall hold a hearing on all appeals that it rules upon. The hearing shall be conducted as described in Section 5.4.

- 5.6 Duration of Approval. A development permit shall automatically expire if Building Permits have not been issued within one year from the date of final approval. A time extension not exceeding one year beyond the initial one-year period may be granted by Planning Director. A public hearing is not required for the extension.

5.7 Revocation of Approval

- 5.7.1 A permit granted may be revoked if any of the conditions or terms of the permit are violated, the use is discontinued, or if any law or ordinance is violated in connection with the permit.
- 5.7.2 The Planning Review Committee shall hold a hearing on any proposed revocation and make its decision using the process set forth in this Code for approval of a Tribal Council Permit. A decision of the Planning Review Committee can be appealed to the Tribal Council.

- 5.8 Failure to Comply. Failure to comply with any of the terms or conditions of a permit is a violation of this Code, subject to the enforcement

provisions prescribed by Section 7 and any and all other penalties and remedies that may be provided by law.

5.9 Vested Rights. If the provisions of this Code or the Master Plan are amended after a permit or approval is issued, the amendment shall affect the terms of the permit or approval only if construction in accordance with the permit or approval has not begun.

5.10 Variances. A variance is an exception to some standard in this Code.

5.10.1 A variance may be granted where (a) practical difficulties, (b) unnecessary hardships and (c) results inconsistent with the general purpose of the Master Plan and this Code may result from the strict application of certain provisions of this Code.

5.10.2 A variance shall not be granted that authorizes a use that is not authorized by Section 4.

5.10.3 A variance shall only be considered and granted by the Planning Review Committee. A decision of the Planning Review Committee can be appealed to the Tribal Council.

5.10.4 An application for a variance shall be made in writing on a form prescribed by the Planning Review Committee, and shall contain sufficient information to enable the Committee to make an informed decision.

5.10.5 A public hearing shall be held within 30 days after filing of a complete application. No variance shall be approved until there has been a public hearing before the Planning Review Committee and notice has been given as provided above.

5.10.6 In order to grant any variance, after the conclusion of the public hearing, the Planning Review Committee shall make a finding of facts showing that all of the following conditions exist:

5.10.6.1 There are exceptional or extraordinary circumstances or conditions applying to the land or building referred to in the application, including size, shape, topography, location or surroundings, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same district.

5.10.6.2 Because of these exceptional or extraordinary circumstances or conditions, the strict application of this Code deprives the property of privileges enjoyed by other property in the vicinity and within the same development code district.

5.10.6.3 The granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant.

5.10.7 Each variance request is unique and stands on its own merits. It does not set a precedent for any future requests.

5.11 Boundary Uncertainties. If boundaries of land allocations or parcels are too unclear to establish setback lines, the Planning Review Committee has the authority to set the line from which setbacks will be measured, using the best information available.

5.12 Fees. The Tribal Council may adopt a written fee schedule that applies to applications made under this Code.

5.13 Amendments. The Tribal Council may amend this Code as necessary. Prior to making a decision upon a proposed amendment, it shall request a written recommendation from the Planning Director and the Planning Review Committee. Before making a recommendation, the Planning Review Committee shall hold a public hearing and comply with the requirements in Section 5.4.

Section 6: Building Permits

6.1 Purpose. The purpose of a Building Permit is to ensure compliance with all building code and other technical code provisions.

6.2 Types of Codes

6.2.1 The International Residential Code applies to one and two-family dwellings (duplexes) and multiple single-family dwellings (townhouses) that are not more than three stories high and have separate entrances.

6.2.2 The International Building Code applies to buildings other than those listed above.

6.2.3 The International Existing Building Code applies to existing buildings undergoing repair, alternations or additions and change of occupancy.

6.2.4 Other codes, such as the International Energy Conservation Code, apply as referenced in one of the above codes or for specific types of construction techniques.

6.2.5 The Planning Director or his or her designee can advise on code requirements.

6.3 Requirements for Permits.

6.3.1 The requirements for building permits are set forth in the International Residential Code or the International Building Code, whichever applies. The following provisions, summarized from the building codes, are for the convenience of the user of this Code. For more detail, the building code or Planning Department should be consulted. In case of conflict between this Code and the applicable building code, the applicable building code shall prevail.

6.3.2 Unless exempted below, any person or entity having a Land Assignment, leasing land, or owning land within the area to which this Code applies pursuant to Section 1.3 and who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Planning Department and obtain the required Building Permits. This requirement is in addition to the requirements in Section 4 for obtaining a development approval or permit.

6.4 Work Exempt from Permit.

Building Permits shall not be required for the following activities.

6.4.1 Buildings:

6.4.1.1 One-story detached accessory structures, provided the floor area does not exceed 200 square feet.

6.4.1.2 Fences not over 6 feet high.

6.4.1.3 Retaining walls that are not over 4 feet in height measured from the bottom of the footing to the top of the wall.

6.4.1.4 Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed 2 to 1.

6.4.1.5 Sidewalks and driveways not more than 30 inches above adjacent grade and not over any basement or story below.

6.4.1.6 Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

6.4.1.7 Prefabricated swimming pools that are less than 24 inches deep.

6.4.1.8 Swings and other playground equipment accessory to a one or two-family dwelling.

6.4.1.9 Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.

6.4.2 Electrical: A permit shall not be required for minor repair work.

6.4.3 Gas:

6.4.3.1 Portable heating, cooking or clothes drying appliances.

6.4.3.2 Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

6.4.3.3 Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

6.4.4 Mechanical:

6.4.4.1 Portable heating appliance.

6.4.4.2 Portable ventilation appliances.

6.4.4.3 Portable cooling unit.

6.4.4.4 Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

6.4.4.5 Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

6.4.4.6 Portable evaporative cooler.

6.4.4.7 Self-contained refrigeration systems containing 10 pounds or less of refrigerant or that are actuated by motors of 1 horsepower or less.

6.4.4.8 Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.

6.4.5 The stopping of leaks in drains, water, soil, waste or vent pipe.

6.4.6 The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets.

6.5 Emergency repairs. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the Planning Department.

6.6 Repairs. Application or notice to the Planning Department is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.

6.7 Public service agencies. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution, metering or other related equipment that is under the ownership and control of public service agencies by established right.

6.8 Responsibilities. An individual who is involved with any building or construction project has the responsibility to check with the Planning Department to determine if a Building Permit is required.

6.9 Approval. A Building Permit is granted by the Planning Director or his or her designee. No hearing is required. The decision of the Planning Director cannot be appealed because the decision shall be based solely on whether the proposed development meets the technical standards of the applicable building code.

6.10 Posting. Notice of the Building Permit shall be posted at the front of the building site prior to beginning grading or other construction and shall remain posted until all building inspections are successfully completed.

6.11 Inspections. The building cannot be occupied or otherwise used until all building inspections are successfully completed and a written record of the inspection has been prepared. The Planning Director or his or her designee has the authority to enter upon the site to conduct these inspections.

7.10.1 Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Code, and any use of any land, building or premises established, conducted, operated or maintained contrary to the provisions of this Code shall be unlawful and a public nuisance.

7.10.2 The Planning Director shall, upon discovery of unlawful acts and public nuisances, immediately commence action or proceedings for the abatement and removal and enjoinder of unlawful acts or public nuisances contrary to the provisions of this Code, in the manner provided by law.

7. Enforcement

7.1 Purpose. The purpose of this section, Enforcement, is to provide uniform provisions for the effective and fair enforcement of this Code.

7.2 Authority. The Tribal Governor has the responsibility to enforce the provisions of this Code.

7.3 Enforcement Implementation. It is the duty of the Planning Director or his or her designee to coordinate the implementation and enforcement of the provisions of this Code under direction of the Tribal Governor. Other tribal departments and personnel, such as the Tribal Sheriff and utilities, have the duty to assist in the enforcement of the provisions of this Code.

7.4 Enforcement Actions. The Planning Director or his or her designee may take one or more of the following actions in implementing the enforcement of this Code:

7.3.1 Issue an order to stop construction until the provisions of this Code are met.

7.3.2 Issue an order to remove development or bring it into conformity with this Code.

7.3.3 Issue an order that water and sewer services will not be provided to development used for commercial purposes until the development is brought into conformity with this Code.

7.5 Tribal Police and Courts. An Enforcement Order of the Planning Director shall be enforced by the tribal police and courts.

7.6 Other Enforcement Actions. The enforcement actions in Section 7.3 shall not limit the ability of the Planning Director to implement the enforcement of this Code by other means that have been adopted by the Tribal Council or by enforcement actions permitted in the applicable building code.

7.7 Unsafe Buildings. The Planning Department may, after complying with the provisions of Section 5.4, issue an order that any unsafe building be torn down.

7.8 Appeals. An Enforcement Order of the Planning Director may be appealed to the Planning Review Committee..

7.9 Other Officials. All departments, official and public employees of the Pueblo vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Code.

7.9.1 No permit or license for uses, buildings or purposes in conflict with the provisions of this Code shall be issued.

7.9.2 Any permit or license issued in conflict with the provisions of this Code shall be null and void.

7.10 Unlawful Acts and Public Nuisances