



PUEBLO OF ISLETA BUSINESS PERMIT POLICY

Section 1. Authority

This policy is enacted pursuant to the sovereign authority of the Pueblo of Isleta and pursuant to Article V, Section 2, Subparts b and l of the Pueblo of Isleta Tribal Constitution.

Section 2. Purpose

The Pueblo of Isleta Tribal Council hereby declares that the regulation of all persons engaged in trade and business on the lands of Isleta Pueblo is necessary to safeguard and promote the political integrity, economic security, and the health and welfare of the Pueblo of Isleta ("Tribe"). The Tribal Council hereby declares that the Tribe has the exclusive authority to regulate the conduct of business within its lands and has the authority to grant, deny or withdraw the privilege of doing business within these lands.

Section 3. Scope

- A. This Policy shall be applicable to persons engaged in business within the Pueblo of Isleta lands ("Pueblo Lands").
- B. Any person who has a business or conducts business at a location within Pueblo Lands shall be deemed to have consented to:
1. be bound by the terms of this Policy;
 2. to the exercise of civil jurisdiction by the Isleta Pueblo Tribal Court in legal actions arising pursuant to this Policy; and
 3. to such enforcement actions arising pursuant to this Policy.

Section 4. Administration of Policy

The Governor shall be responsible to ensure the overall administration and enforcement of this Policy but shall delegate daily or routine administration and enforcement responsibility to the Treasury Department or the Tax Administration Division.

Section 5. Definitions

- A. **Business:** any activity engaged in by any person, or caused to be engaged in by any person, with the object of gain, benefit or advantage, either direct or indirect, such as conducting a trade, profession, or commercial activity involving the sale of any property or services.
- B. **Business Entity:** the person or organization that conducts or operates business activities under a specific name.
- C. **Business Permit Policy:** the Isleta Business Permit Policy that regulates the conduct of business and trade on the Pueblo of Isleta. Also referred to as "**Policy**."
- D. **Business Permit:** the permit issued by the Pueblo of Isleta pursuant to the Pueblo of Isleta Business Permit Policy. Also referred to a "**Permit**."

- E. **Business Permittee:** any person or entity who has been issued and is the holder of a Pueblo of Isleta Business Permit and who is subject to the Isleta Business Permit Policy. Also referred to as “Permittee.”
- F. **Cigarette Vendor:** any person that sells cigarettes or tobacco products. Also referred to as “Cigarette business.” There are two classes of cigarette vendors: 1) “retail cigarette vendor” and 2) “wholesale cigarette distributor.”
- G. **Class of Business:** the nature or class of business operation, such as agricultural, retail, wholesale, etc. This determines the type of Business Permit required.
- H. **Corporation:** a business organized under the federal, state or tribal laws that allow an artificial legal being to exist for purposes of doing business.
- I. **Days:** working days, and excludes weekends and holidays. If a deadline falls on a weekend or holiday, the deadline is extended until the next working day.
- J. **Food Vendors:** Any person who sells any food or food product intended for human consumption, including hot foods and foods intended for immediate consumption.
- K. **Governor:** the Governor of the Pueblo of Isleta or his designee.
- L. **Joint Venture:** the participation of two companies jointly in a third enterprise. Generally both companies contribute assets and share risks.
- M. **Location:** the physical place or area where the business activity is being conducted.
- N. **Mobile Commercial Vendor:** any non-tribal member person engaged in business that regularly sell goods or services on a schedule or by appointment or invitation by routine customers located within Pueblo Lands.
- O. **Partnership:** a business organization made up of two or more individuals who have entered into an agreement, either expressed or implied, to carry on a business venture for profit.
- P. **Peddler:** any person engaged in business of a temporary or transient nature who sells goods or services from a location which is not a permanent structure or building.
- Q. **Person:** any person or entity, including business, partnership, corporation, association, organization or other legal entity of any kind. Must be an adult over 18 years of age.
- R. **Place of Business:** the location where the business activity is conducted.
- S. **Property Owned by the Tribe:** property or lands owned or operated by the Tribe. Does not include land assignments to tribal members.
- T. **Public Welfare:** a governmental responsibility to ensure the businesses are generally being conducted with a maximum amount of safety to the public.
- U. **Pueblo Enterprise:** an unincorporated enterprise of the Pueblo, and any other entity in which the Pueblo owns not less than 51% of the capital and profits and interests, that engages in commerce on the Pueblo Lands.
- V. **Pueblo Lands:** all lands within the exterior boundaries of the Pueblo of Isleta, and lands now or

hereafter held in trust by the United States for the Pueblo's benefit, and any other Indian Country over which the Pueblo exercises sovereign governmental authority.

W. **Retail Cigarette Vendor:** a person who sells cigarettes and/or tobacco products at retail to a consumer and the cigarettes and/or tobacco products are not intended for resale.

X. **Sole Proprietorship:** a business where one person owns all of the assets, owes all of the liabilities and operates in his or her own capacity. Also referred to as a "Sole Proprietor."

Y. **Tax Administrator:** the Tax Administrator of the Tax Administration Division of the Pueblo of Isleta.

Z. **Treasury Department:** the Treasury Department of the Pueblo of Isleta, which includes the Tax Administration Division.

AA. **Tribe:** the Pueblo of Isleta, a federally recognized Indian Tribe. Also be referred to as the "Pueblo."

AB. **Tribal Council:** the legislative branch of the Pueblo of Isleta.

AC. **Tribal Court:** the Isleta Pueblo Tribal Court.

AD. **Tribal Member:** any individual who is an enrolled member of the Pueblo of Isleta.

AE. **Tribal Member Owned Business:** a business owned by an Isleta Pueblo Tribal Member who holds fifty-one percent (51%) or more ownership rights in the business.

AF. **Wholesale Cigarette Distributor:** a person who possesses, transports and sells cigarettes and/or tobacco products for wholesale or resale purposes.

Section 6. Permit Required

A. Any person who conducts or engages in business and whose business is located within Pueblo Lands shall be required to obtain a Business Permit issued by the Tribe. No person shall operate a business within Pueblo lands without a valid Business Permit as required by this Policy.

B. Business Permits shall only be issued to adults. No minor child shall be allowed to hold a Business Permit.

C. A separate Business Permit shall be required for each location or place of business.

D. A separate Business Permit shall be required for each type of cigarette business conducted, even if the businesses are operated out of one location. For example, if there is a retail operation and a wholesale operation located at the same place of business, a Business Permit shall be required for each type of business and the appropriate fee paid for each type of Business Permit.

E. The Tribal Council reserves the right to require a separate or additional permit for such businesses as deemed necessary for the regulation of business activity within Pueblo Lands.

F. Businesses wholly owned and operated by the Pueblo of Isleta are required to obtain a Permit under this Policy.

Section 7. Class of Business

A. **Class A Businesses** are exempt from the Business Permit Policy and are not required to register with the Pueblo or pay the Business Permit fee. The following are considered as Class A businesses:

1. Charitable, religious, community, educational organizations, or private individuals which engage in activity to raise funds for social, educational, religious or other purposes that are for the benefit of the Pueblo of Isleta or tribal community member(s).
2. Sellers of farming/agricultural produce that is solely cultivated on Pueblo lands.
3. Sellers of Indian oven bread and other traditional food products.
4. Occasional yard sales conducted at tribal member residences or properties, or conducted at a "flea market" business location where that owner has obtained a Business Permit for that type of activity.

B. **Class B Businesses** are not required to pay the Business Permit fee but are required to register the business with the Pueblo and obtain a Class B Business Permit. The following are considered as Class B businesses:

1. Indian arts and crafts made or maintained for sale, whether wholesale or retail, by any Isleta tribal member.

Registration shall consist of completing the Business Permit application and providing such information as may be required. Class B Businesses are expected to comply with all other requirements of this Policy.

C. **Class C Businesses** are those businesses that provide general retail goods or services. In addition to general retail goods, businesses with a Class C Business Permit can also sell Indian arts and crafts as identified above. Class C Businesses include commercial food sales, other than Indian oven bread and other traditional food products, from a permanent or fixed location.

D. **Class D Businesses** are those businesses that sell cigarettes and/or tobacco products at retail to a consumer and the sale of the cigarettes and/or tobacco products is not intended for resale. In addition to cigarettes and/or tobacco products, businesses with a Class D Business Permit can also sell general retail goods and Indian arts and crafts.

E. **Class E Businesses** are those businesses that possess, transport and sell cigarettes and/or tobacco products for wholesale or resale purposes. This does not include retail sales of cigarettes and/or tobacco products.

F. **Class F Businesses** are those businesses or vendors who sell on a temporary basis and meet the definition of peddler.

G. **Class G Businesses** are those businesses or vendors who sell goods or services on Pueblo lands to community members on a scheduled or appointment basis or at the invitation of the community members. Examples are commercial frozen food sales, propane sales and bottled water sales.

H. **Class H Businesses** are those businesses wholly owned and operated by the Pueblo of Isleta.

Section 8. Conditions of Permit

- A. Each Permittee shall comply with this Permit Policy, all applicable federal and tribal laws and regulations.
- B. Each Permittee consents to the civil jurisdiction by the Tribal Court in legal actions arising pursuant to this Policy and to such enforcement actions arising pursuant to this Policy.
- C. Each Permittee shall comply with the Order of the Governor to temporarily close businesses on Pueblo lands for tribal traditional activities.
- D. Each Permittee is responsible for updating all information that is required for a Business Permit application during the term of the Permit.
- E. The Business Permit shall be displayed in a conspicuous place at the business location identified on the Permit.
- F. The Permittee is responsible for the conduct of their officers, agents or employees and the Permittee assumes all responsibility and liability for activities arising from the conduct of their business and activities occurring at the business location.

Section 9. Additional Requirements for Certain Types of Businesses

- A. A particular class of business such as cigarette vendors may be required to comply with additional requirements established under this Policy and/or another Pueblo of Isleta Ordinance. Failure to comply with such other requirements is also considered grounds for revocation or other enforcement actions under this Policy and/or the applicable Tribal Ordinance.
- B. The Tribal Council reserves the right to impose additional requirements during the term of the Business Permit upon proper notice to the businesses affected when determined necessary in the best interest, health or welfare of the Tribe. The Tribe may restrict or require a change of the location of a Permittee's business if the location could have a detrimental impact on the health, safety or well-being of the Tribe or the community.
- C. Food Vendors: Individuals preparing the food product for commercial food sales shall complete a prescribed Indian Health Service Food Handler's class and post or have available the certificate of completion on premises or readily available.
- D. Cigarette Vendors:
 - 1. All businesses that sell any quantity of cigarettes or tobacco products at retail must apply for a Class D Business Permit, and pay the required fee, even if the primary purpose of the business is not cigarette or tobacco product sales and would otherwise be exempt from the Business Permit fees based on the class of business such as Indian arts and crafts, agricultural products or traditional food sales.
 - 2. All cigarette vendors shall comply with all applicable tribal and federal laws relating to the sale and transportation of cigarette and tobacco products on or from Pueblo Lands.
 - 3. Separate permits shall be required for retail cigarette operations and wholesale cigarette distributor operations, even if both of these businesses operate out of the same location.

Section 10. Application and Fees

A. An application for a Business Permit shall be submitted on such form as provided by the Tribe. All applications shall include the following information:

1. A description of the business and the products/services sold.
2. Name and address of the owner or owners of the business;
3. Description and proof of business structure such as sole proprietorship, corporation, partnership, or other.
4. Description and proof that the business is tribal member owned.
5. Trade or business name used by the business.
6. The location at which the business will be conducted. The Tribe shall require proof of ownership of land assignment where business is to be located.
7. A statement regarding the applicant's criminal history, if any.
8. A statement that the applicant consents to the jurisdiction of the Tribe, including the Tribal Court, with regards to matters arising from the conduct of business and this Policy, and agrees to abide with all applicable tribal and federal laws and regulations.
9. Any additional information that the Tribe deems necessary to make a determination on issuing a Business Permit.

B. The following fees are required to be submitted along with the application:

1. **Class B** Business Permit - Businesses Required to Register:..... No Fee
2. **Class C** Business Permit - General Retail/Services:
 - Isleta Tribal Member (sole proprietor)\$ 250.00 per year
 - Isleta Tribal Members in Corporation, Partnership, Joint Venture or other Formal Business Relationship/Structure with other Isleta Tribal Member(s).....\$ 250.00 per year per member
 - Isleta Tribal Member in Corporation, Partnership, Joint Venture, or Other Formal Business Relationship/Structure With Non-Member(s) \$ 1,000.00 per year
 - Non-Member Business Located on Pueblo Enterprise Property or Property Owned by the Tribe.....\$ 1,000.00 per year
3. **Class D** Business Permit - Retail Cigarette VendorSame as Class C Permit Fees above
4. **Class E** Business Permit - Wholesale Cigarette Distributors \$ 5,000.00 per year
5. **Class F** Business Permit – Peddler

Per Day (or any part thereof).....	\$ 20.00
Per Week (or any part thereof)	\$ 50.00
Per Month	\$ 200.00
Feast Day (Tribal members exempt from fees).....	\$ 25.00

- 6. **Class G Business Permit – Mobile Vendors**
 - Per Month\$ 100.00
 - Per Year\$ 500.00
- 7. **Class H Business Permit – Tribally Owned and Operated Business.....No Fee**
- 8. Amended Permit Application.....\$ 25.00

C. The fees may be periodically amended at the discretion of the Tribal Council and Permittees shall be notified of any fee changes.

D. No refund shall be made for businesses discontinued during a permit term.

Section 11. Term of Permit and Renewal

A. Except for Class F and Class G Business Permits, the Business Permit shall be valid for one (1) year from the date of issuance and is only valid for the location for which it was issued.

- 1. Class F Business Permits are valid only for the location designated by the Pueblo and specified on the Permit and peddlers are not allowed to solicit door-to-door on Pueblo lands.

B. A Permittee must apply for renewal at least thirty (30) calendar days prior to the expiration of the existing Permit.

C. Payment of permit fees are due at time of application or renewal.

Section 12. Changes in Business Structure and Location; Amending Business Permit

A. A Permittee must submit an amended application in the following situations:

- 1. Any change in the information required in the Business Permit application. An amended application must be submitted within thirty (30) days of such change.
- 2. A change in the location of the business for which the Permit was issued. An amended application must be submitted at least thirty (30) days prior to the actual change in location. In the event that the change in location could have a detrimental impact on the health, safety or well-being of the Tribe or the community, the Tribe reserves the right to deny the change in location. Failure to get approval for the change in location shall invalidate the Permit and subject the Permittee to enforcement for doing business without a permit.

B. An amended Permit will be issued upon review of the amended application information.

C. A change in the type of business from what was described in the application and upon which the Permit was issued may require the Permittee to obtain a second or different type of Business Permit instead of simply amending the Business Permit application. For example, if a retail cigarette vendor wishes to expand his or her business to include wholesale distribution of cigarettes, then a second permit

will be needed for the wholesale operation, even if it is in the same location as the retail operation. Or if an arts and crafts vendor wishes to sell cigarettes, then a new permit will be required for the cigarette sales, even if cigarettes are not the primary items being sold. Or if there is a change in the structure of the business such as changing from a sole proprietorship to a partnership.

Section 13. Transfer of Business Permit

A Business Permit is issued to the Permittee and is not transferable and is valid only for the business location specified in the application and on the Business Permit itself.

In the event of a sale or transfer of a business to another family member or individual, that family member or individual, as the new owner, will have to apply for and receive their own Business Permit and pay the required fees.

Section 14. Denial of Permit; Appeal Request; Hearing

A. An application for a Business Permit or a renewed Business Permit may be denied if it is determined that:

1. the application is incomplete or the appropriate fee has not been paid;
2. the applicant does not meet the requirements for issuance of a Business Permit;
3. the applicant has materially misrepresented facts in the application;
4. the applicant is presently in non-compliance with tribal law or has engaged in a fraudulent, deceptive, dishonest or illegal practice;
5. the applicant's background or the business activity is contrary to or threatens the political integrity, economic security, safety, health or public welfare of the Tribe or the public.

B. The applicant will be notified of the decision to deny the application by certified mail, return receipt requested or by hand delivery. The applicant shall have seven (7) days from receipt of the notice of denial to file an appeal to the Tribal Council.

C. The appeal request shall be in writing, dated and signed by the applicant, and shall include a concise statement of why the initial denial decision should be reversed and any new or previously unconsidered information that supports the applicant's request. The appeal request shall be submitted to the Tribal Council. The Tribal Council shall set a hearing to be held within thirty (30) days of receipt of the appeal to consider the appeal. The applicant shall be timely notified of the date and time of the hearing. The Tribal Council shall decide whether to uphold the decision to deny the Permit or to reverse the decision and issue a Business Permit. The decision of the Tribal Council shall be final and no further appeal is allowed.

Section 15. Inspections and Audits

A. The Pueblo of Isleta Police Department is directed and authorized to make inspections of all businesses under this Policy, either upon the request of the Tax Administrator or upon information of a violation, to determine whether all applicable tribal laws and regulations and terms of this Policy are being observed. All investigative reports of violations shall be brought to the attention of the Tax Administrator and the Governor for enforcement actions pursuant to this section.

B. The Pueblo of Isleta Fire Department or designated agent is directed and authorized to make

periodic inspections of all facilities of any of the businesses issued Permits. The purpose of the inspection is to determine whether fire hazards are minimized, whether all proper precautions for emergency exit have been taken, and whether the businesses are generally being conducted with a maximum amount of safety to the public. All investigative reports of violations shall be brought to the attention of the Tax Administrator and the Governor for enforcement actions pursuant to this section.

C. The Tax Administrator is directed and authorized to contract with a qualified person or entity to conduct periodic and unannounced inspections of food service facilities on Pueblo Lands. These inspections shall be conducted at permanent facilities that offer food such as restaurants and markets. Inspections may also be conducted at temporary booths associated with seasonal or tribal feasts and celebrations or at temporary locations operated by food vendors.

D. The Tax Administrator will make systematic inspections and random audits of all businesses within Pueblo Lands to ensure compliance with this Policy, and shall make such other inspections and audits as required by all applicable federal and tribal laws and regulations.

E. Every Permittee is required to cooperate with the Tax Administrator or any other authorized entity or agent in the course of its duties under this Policy. Failure to do so is a violation of this Policy.

Section 16. Enforcement and Penalties

A. Any person who fails to obtain a Business Permit that is required under this Policy or other Tribal law or regulation shall be issued a Notice of Violation. The Notice of Violation may require the person to show why they should not be enjoined from doing business on Pueblo lands without a Business Permit.

B. Any Permittee who fails to comply with the terms of the Business Permit or any other applicable federal or tribal law or regulation shall be issued a Notice of Violation. The Notice of Violation shall specify the basis for the non-compliance, and may require the Permittee to show why their Business Permit should not be revoked.

C. The Notice of Violation shall be issued by the Tax Administrator and shall describe the specific violation and the penalty, if any. A Notice of Violation shall be sent to the Permittee by certified mail, return receipt requested or by hand delivery.

D. Penalties for violation of this Permit Policy can include one or more of the following:

1. Impose conditions on Permit to allow Permittee to correct or abate the violation and operate the business on the condition that no further violation of this Policy or other applicable federal or tribal law or regulation shall occur for the remainder of the permit term or other specified time
2. Prohibition against the business from selling or conducting business within Pueblo Lands in the case of a Peddler or Mobile Commercial Vendors
3. Suspension of the Permit
4. Revocation of the Permit
5. Civil fine not to exceed more than \$500 per offense
6. Closure of the business
7. Restrain or prevent the occupancy of the building, premises or structure where the

business is located

E. A Permittee may appeal any action taken by the Tax Administrator for the imposition and enforcement of penalties described in subparagraph 1, 2, 3 and 4 above to the Tribal Council. The Permittee shall have seven (7) days from receipt of the Notice of Violation to file a Notice of Appeal with the Tribal Council. The decision of the Tribal Council shall be final.

F. A Permittee may appeal any action taken by the Tax Administrator for the imposition and enforcement of penalties described in subparagraphs 5, 6 and 7 above to the Tribal Court. The Permittee shall have seven (7) days from receipt of the Notice of Violation to file a Notice of Appeal with the Tribal Court.

Section 17. Suspension or Revocation of Permit; Notice; Appeal

A. A Permit issued under this Policy may be temporarily suspended or permanently revoked for any of the following:

1. Fraud, misrepresentation or incorrect statement in the permit application;
2. Fraud or misrepresentation made in the course of carrying on the business;
3. The Permittee has engaged in unlawful activity or has repeated violations of this Policy;
4. Conducting business in an unlawful manner or in such a way as to constitute a danger or nuisance to the health, safety or general welfare of the Pueblo or the public;
5. Failure to comply with any other applicable federal or tribal laws or regulations or permitting requirements.

B. Suspension

1. The Tax Administrator shall issue a Notice of Suspension describing the specific grounds for suspension and the term of suspension. The Notice of Suspension shall be given to the Permittee directly or sent by certified mail with return receipt requested.

2. The Permittee shall temporarily suspend all business operations relating to the Business Permit during the suspension period. Failure to comply with the suspension terms shall result in revocation of the Permit.

C. Revocation

1. The Tax Administrator shall issue a Notice of Revocation describing the specific grounds for revocation. The Notice of Revocation shall be given to the Permittee directly or sent by certified mail with return receipt requested.

2. As no business may operate without a valid Business Permit, the Permittee shall stop all business operations relating to the Business Permit upon revocation of the Permit.

D. Appeal

1. After receiving either a Notice of Suspension or a Notice of Revocation, a Permittee may request an appeal to the Tribal Council. The Permittee shall have seven (7) days from receipt of the notice to file a Notice of Appeal to the Tribal Council. The Notice of Appeal shall be in writing, dated and

signed by the Permittee.

2. The Tribal Council shall set a hearing within thirty (30) days of receipt of the Notice of Appeal to consider the Appeal, with the Tax Administrator in attendance. The Permittee shall be timely notified of the date and time of the hearing. The parties may also have their legal counsel present at such hearing. The Tribal Council shall reverse a final determination of the Tax Administrator only upon a finding that it was arbitrary, capricious or an abuse of discretion. The decision of the Tribal Council shall be final and no further appeal is allowed.

E. Operations During Appeal of Suspension or Revocation.

1. If a Permittee timely files a Notice of Appeal, the Permittee shall be allowed to temporarily continue business operations until such time of a hearing and decision by the Tribal Council. If the Permittee does not timely file a Notice of Appeal, the Permittee shall temporarily suspend business operations for the specified suspension period, or stop business operations relating to the Business Permit in the case of a revocation of the Business Permit. However, a Permittee may be ordered to immediately cease and desist the operation of the business pending an appeal if in the discretion of the Tax Administrator the violation is serious enough to threaten the health, safety or general welfare of the Tribe, the community or the public.

F. The Pueblo, its officials, employees, and agents are not liable for any damage, loss or harm to the Permittee, or any aspect of the Permittee's business, that may result or occur, directly or indirectly, from the suspension or termination of business operations required pursuant to this Policy.