

**HUALAPAI TRIBAL COUNCIL  
RESOLUTION NO. 46- 2010  
OF THE GOVERNING BODY OF THE  
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION  
PEACH SPRINGS, ARIZONA**

(Enactment of the Solid Waste Management & Recycling Ordinance of the Hualapai Tribe)

**WHEREAS**, the Hualapai Tribal Council is the legislative body of the Hualapai Tribe and is empowered by the Constitution of the Hualapai Indian Tribe to enact legislation to regulate the use and disposition of all land within the jurisdiction of the Tribe; and


**WHEREAS**, the Hualapai Tribal Council finds it necessary to protect the environment and air, surface and ground water resources and to regulate the number, location, and operation of solid waste facilities in order to protect the public's health, safety, and general welfare in a manner that meets the best interests of the Tribe.

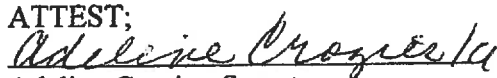
**NOW, THEREFORE, BE IT RESOLVED** that the Hualapai Tribal Council assembled this 7<sup>th</sup> day of August, 2010, does hereby approve and enact Solid Waste Management & Recycling Ordinance attached hereto as Ex. A; and

**BE IT FURTHER RESOLVED** that the Solid Waste & Recycling Ordinance shall go into effect immediately upon passage by the Tribal Council.

**C E R T I F I C A T I O N**

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 9 Constituting a quorum were present at a **REGULAR COUNCIL MEETING** thereof held on this **7th day of August 2010**; and that the forging resolution was duly adopted by the affirmative vote of 7 in favor, 2 opposed, 0 not voting and 0 excused, pursuant to the authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

  
Wilfred Whatoname, SR., Chairman  
**HUALAPAI TRIBAL COUNCIL**

ATTEST;  
  
Adeline Crozier, Secretary  
**HUALAPAI TRIBAL COUNCIL**

# Solid Waste Management & Recycling Ordinance

**Ordinance of the Hualapai Tribe**

*Reviewed by TERC Committee and approved: July 22, 2009*

*Reviewed and revised by Gallagher & Kennedy: December 6, 2009*

*Approved by the Hualapai Tribal Council: August 7, 2010*

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Article I. Legislative Intent & Purpose .....	3
1.01 Intent of Ordinance .....	3
1.02 Purpose.....	3
1.03 Education .....	3
1.04 Hualapai Tribe's Sovereign Immunity .....	4
Article II. Definitions.....	4
2.01 General Definitions.....	4
Article III. In General.....	7
3.01 Authority & Scope .....	7
3.02 Applicability .....	7
3.03 Consensual Relations among Non-Members, the Tribe and tribal Members.....	7
3.04 Responsibilities of solid waste program manager; report and removal of nuisances.....	8
Article IV. Solid Waste Requirements.....	9
4.01 Accumulation.....	9
4.02 Storage .....	9
4.03 Placement of containers at collection site and removal.....	9
4.04 Tribal Collection Service, generally .....	10
4.05 Private Collection.....	10
4.06 Transportation.....	11
4.07 Disposal.....	11
4.08 Disposal for ceremonial purposes.....	11
4.09 Interference with inspections, containers, collection, disposal, etc. ....	12
Article V. Collection and Disposal of Certain Wastes .....	12
5.01 Dead animals.....	12
5.02 Construction Demolition Debris.....	12
5.03 Evictions and Move Outs .....	12
5.04 Fecal matter, non-household organic waste, etc. ....	13
5.05 Hazardous Waste .....	13
5.06 Lot Clearing & Tree Removal .....	13
5.07 Manure Waste.....	13
5.08 White Goods .....	13
Article VI. Inoperable and Abandoned Vehicles .....	13
6.01 Inoperable Vehicles; Abandonment Prohibited.....	13
6.02 Violation; Notice.....	14
6.03 Disposal.....	15
Article VII. Transfer Station Requirements .....	15
7.01 Facility Maintenance.....	15
7.02 Facility Operation .....	15
Article VIII. Recycling .....	15
8.01 Materials Recycled.....	15
8.02 Community Wide Recycling Program.....	15
Article IX. Enforcement & Violations .....	15
9.01 Enforcement.....	15
9.02 Executor, trustee, agent, etc. deemed owner of property.....	16
9.03 Notice of violation .....	16
Article X Commencement of Action .....	16
Article XI Penalties.....	17

## **Article I. Legislative Intent & Purpose**

### **1.01 Intent of Ordinance**

- (a) To encourage, finance, regulate and thus enhance the community's life way connection through sound solid waste management practices to a healthy environment, to protect air, surface and ground water resources and to regulate the number, location, and operation of solid waste facilities in order to protect the public's health, safety, and general welfare. To supplement and support the Hualapai Tribe's control over solid waste management activities within the Hualapai Indian Reservation.
- (b) Solid waste is the result of using a commodity or its packaging. Post-use consideration should be given to the remaining material's resource capabilities. This includes consideration of recycling and reuse. Solid waste includes any garbage, solid waste material, sludge from a waste treatment plant or water supply treatment plant, and other discarded material, including solid, liquid, or semisolid material.

### **1.02 Purpose:**

- (a) The purpose of this ordinance is to establish standards for disposal and recycling of solid waste and the operation of solid waste facilities within the boundaries of the Hualapai Indian Reservation. To accomplish this purpose, the ordinance aims to:
  - (i) Implement, regulate, enforce standards and exercise comprehensive authority over all solid waste and recycling matters within the exterior boundaries of the Hualapai Indian Reservation.
  - (ii) Protect tribal cultural & ceremonial lands, residential, commercial, and forests within the exterior boundaries of the Hualapai Indian Reservation.
  - (iii) Prevent deterioration of the environment, and promote the health, safety, and welfare of all persons within the exterior boundaries of the Hualapai Indian Reservation.
  - (iv) Prevent air, water, and land from solid waste pollution, including contamination of the tribes' aquifers, groundwater, surface waters, and other natural resources.
  - (v) Keep community member's yards neat and trash/litter free.
  - (vi) Stop illegal dumping and promote the use of the Solid Waste Transfer Station.
  - (vii) Encourage recycling of solid waste i.e. cans, cardboard, etc.
  - (viii) Stop the open burning of solid waste in the community and promote the use of the Solid Waste Transfer Station, except as identified in section 4.08 and 7.02.

### **1.03 Education**

- (a) The ordinance encourages education on these practices for the community. The Director of Public Services and the Director of Planning, or their designee, will administer trainings for the community as deemed necessary by their respective Departments. Other community education may occur through announcements in the Gamyu, and/or individual notices of violations.

#### 1.04 Hualapai Tribe's Sovereign Immunity

- (a) Neither the Ordinance, nor the tribe's solid waste program, nor any action or agreement of the program, shall be construed as, or is intended to be, a waiver or modification of the Hualapai Tribe's inherent sovereign immunity.
- (b) Specifically, the tribe reserves the right to contest the jurisdiction of the Federal Court in any citizens' suit filed against it under section 7002 of the SWDA (Solid Waste Disposal Act), except to the extent that such jurisdiction may be expressly waived by the tribe in such suit.
- (c) The Hualapai Tribe, its Tribal Council, Public Services Department, Public Health Department, all tribal officers, and all Tribal employees, who are performing their duties by implementing or enforcing the ordinance and tribe's Solid Waste Program, are immune from suit for monetary damages in any court of law and they do not waive any of their sovereign rights or immunities, executive privileges or right to privacy or confidentiality.

#### **Article II. Definitions**

2.01 General Definitions: Generally, for the purpose of this ordinance, certain words and phrases shall have the meanings ascribed to them by this section

- (a) Administration – The Hualapai Department of Public Services.
- (b) Abandoned Vehicle – A vehicle whether lost, stolen, abandoned or otherwise unclaimed and that has been abandoned on a public highway, public property or elsewhere on the Reservation, including an individual residence. Evidence that a vehicle was left unattended for a period of seventy-two (72) hours is prima facie evidence of abandonment.
- (c) Business- shall mean any nonresidential generator of solid waste and any company, business or other party which collects, transports, processes, manages or recycles solid waste.
- (d) Bulk container – any approved container larger than the standard household automated collection container, including but not limited to 300 gallon containers, dumpsters, and roll-offs.
- (e) Bulk Waste- Large bulky items such as refrigerators, washers, abandoned vehicles, tires, bedding material, mechanical equipment, mechanical parts, carpeting and other items too large to fit in to a collection container, excluding yard waste, structural waste, and hazardous waste
- (f) Collection – The collection of solid waste from the place at which it is generated, and includes all activities up to the time the waste is delivered or transported to a solid waste facility and includes separated recyclable materials.
- (g) Collection site- any alleyway, curbside, street, sidewalk or other authorized place of deposit for collection.
- (h) Commercial Waste – solid waste generated by stores, offices, institutions, restaurants, warehouses, and non-manufacturing activities at industrial facilities, not including industrial waste, hazardous waste, yard waste, and construction/demolition waste.

- (i) **Construction Waste** (commonly referred to as **Construction Demolition Debris (CDD)**) -Waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of building and roads.
- (j) **Council** - the governing body of the Hualapai Tribe
- (k) **Court** - The Tribal Court of the Hualapai Tribe
- (l) **Composting** - controlled decomposition of organic materials, such as leaves, grass, paper and food scraps, by microorganisms. The result of this decomposition process is compost, a crumbly, earthy-smelling, soil-like material in contrast to the result of pestucibale garbage as defined in section 2.01(aa).
- (m) **Disposable container** - any moisture proof plastic (polyethylene, propylene), metallic or other receptacle for solid waste as defined in section 2.01(c) and 2.01(s).
- (n) **Disposal site** - any place where solid waste may legally be deposited or disposed of and which meets the requirements of all applicable federal, tribal and state laws and regulations.
- (o) **Groundwater** - water below the land surface in the saturated zone of the soil or rock.
- (p) **Hazardous Waste** - any refuse, sludge, or other waste materials or combinations of refuse, sludge, or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include but not limited to explosives, combustibles, flammables, oxidizers, poisons, pesticides, irritants, corrosives, infections material, and radioactive waste that are harmful to the human health or the environment.
- (q) **Household waste**- means all solid waste resulting from the conduct, maintenance, and operation of a residential household, excluding structural waste, yard waste, bulk waste, commercial waste, industrial waste, hazardous waste, recyclables, and tires.
- (r) **Household Hazardous Waste (HHW)** - The leftover content of consumer products used in and around the home that contain hazardous components, including certain paints, cleaners, stains and varnishes, car batteries, motor oil, and pesticides. Certain types of household hazardous wastes have the potential to cause physical injury to sanitation workers, contaminate septic tanks or wastewater treatment systems in poured down drains of toilets, and present hazards to children and pets if left around the house.
- (s) **Household Container** - container supplied Public Services department for pick-up of household waste.
- (t) **Illegal Dumping** - Solid waste which is disposed of in an unauthorized manner. Any disposal of solid waste at a site other than at the Transfer Station or other site designated for solid waste disposal by the Hualapai Tribal Council.
- (u) **Illegal dumpsite** - Any land where the disposition of waste occurs on the Reservation which has not been determined by the Solid Waste Program to be an Municipal Solid Waste Landfill or a landfill authorized by EPA to accept waste under 40 CFR Part 257 shall be considered an open dump site.
- (v) **Industrial Waste**- means solid waste generated during industrial and/or manufacturing processes.

- (w) Litter – solid waste not disposed of in an orderly way.
- (x) Municipal Solid Waste – waste which includes; non-hazardous waste and shall include garbage, refuse, and other solid wastes from residential, commercial, and community activities. (For the purpose of this ordinance, will also include white goods, abandoned vehicles, and recyclables.) The wastes which are acceptable at the Transfer Station as per the Transfer Station Guidelines.
- (y) Organic Waste – Waste material of animal or plant origin.
- (z) Open Burning –the combustion of materials without the use of an incinerator
- (aa) Open Dump – An unapproved/ illegal land disposal site, at which solid waste is disposed of in a manner that does not protect the public health or the environment and is susceptible to open burning and is exposed to the elements, and breeds flies, rodents, and scavengers.
- (bb) Person - any individual, firm, owner, occupant, sole proprietorship, partnership, corporation, unincorporated association, governmental body, municipal corporation, agent, executor, trustee, agent, guardian or other legal entity.
- (cc) Putrescible Garbage – (subject to rotting) solid waste including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking, or serving of foods. Waste originates primarily from in home kitchens, stores, markets, restaurants, and other places where food is stored, prepared, or served.
- (dd) Public Nuisance – The creation of actions or conditions involving solid waste that injures, or endanger the safety, health, comfort, or repose of any member of the public and distract from human potential and economic growth.
- (ee) Program Manager – The administrative manager of the transfer station, pick-up service, and recycling center, who works for the Hualapai Tribe, and is supervised by the Director of Public Services. The program manager regulates and monitors the Transfer Station and Recycling Center
- (ff) Resource Conservation and Recovery Act (RCRA) – This act authorizes EPA to control solid and hazardous waste from “cradle to grave.” RCRA regulates hazardous waste generation, transportation, storage, treatment, and disposal. RCRA also sets forth a framework for the management of non-hazardous solid waste. Amendments to RCRA in 1986 also authorized EPA to address environmental problems arising from underground storage tanks (USTs) storing petroleum and other hazardous substances.
- (gg) Recycling – the process of collecting & sorting solid waste or other discarded material, to make into new material.
- (hh) Recycling container - the container provided by the Public Service Department for the collection of recyclables.
- (ii) Reservation – The Hualapai Tribe and all land within the boundaries of the reservation. This includes all land belonging to the Hualapai Tribe.
- (jj) Solid Waste – all forms of matter in whatever shape or condition, such as household waste, white goods, industrial waste, yard waste, structural waste, commercial waste, hazardous waste, recyclable materials, litter, garbage, refuse, trash, tires and similar matter, including agricultural wastes such as manures and crop residues, soil conditioners.

- (kk) Solid Waste & Recycling Program – The program which has authority for all activity pertaining to the collection, disposal, transportation of solid waste within the reservation.
- (ll) Solid Waste Disposal Act (SWDA) – The Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (“RCRA”) and the 1984 Hazardous and Solid Waste Amendments (“HSWA”) to RCRA.
- (mm) Tribal Environmental Review Commission (TERC) – Established and operating under the provisions of Subtitle A of the Hualapai Environmental Review Code (HERC).
- (nn) Transfer Station – any facility owned by the Hualapai Tribe where solid waste is regularly shifted, transferred, transloaded or moved from one carrier, conveyance or means of transport to any other carrier, conveyance or form of transport and/or to a sanitary landfill, recycling treatment, or other disposal site.
- (oo) Tribe – The Hualapai Indian Tribe of northwest Arizona.
- (pp) Waste management inspector - an inspector designated by the council to enforce this ordinance.
- (qq) White Goods - Large bulky items such as appliances.
- (rr) Yard waste - materials derived from trees, leaves, fallen branches, shrubbery, plants, and lawn trimmings.

### **Article III. In General**

#### **3.01 Authority & Scope:**

- (a) This Tribal Solid Waste Management and Recycling Ordinance adopted by the Hualapai Council, authorizing the Hualapai Tribe to undertake such actions as are identified in the body of this document.
- (b) The provisions of this ordinance shall apply to all management, transportation and disposal of existing & proposed solid waste and recycling activities on the Hualapai Indian Reservation.

#### **3.02 Applicability:**

Because any violation of this ordinance or any regulation adopted there under, will, and has the potential to significantly impact the public health and demonstrably and seriously impact the environment, including land, water and air, natural resources, public health, safety and welfare of the tribe, this ordinance and any regulation adopted there under shall apply to:

- (a) all persons within the boundaries of the reservation without exception, including but not limited to all Tribal members and all other persons on the reservation including Indians who are members of other tribes and all non-Indians.
- (b) all places and lands located anywhere within the boundaries of the reservation including all trust and non-trust lands.

#### **3.03 Consensual Relations among Non-Members, the tribe and tribal Members:**

Any person who is not a member of the tribe who uses land within the boundaries of the reservation, whether trust or non-trust land, enters into consensual relationships with the tribe or its members, through commercial



dealings, contracts, leases or other arrangements: this relationship as a community member does not relieve them of the obligations in this ordinance. General responsibilities:

(a) The Director of Public Services

(i) The Director of Public Services shall be responsible for the collection and disposal of solid waste. The Director of Public Services shall have authority to establish procedures and to enforce regulations concerning:

- 1) The days and time of collection,
- 2) The location and type of containers for collection by the tribe,
- 3) The conveyance of solid waste collected,
- 4) The disposal of solid waste collected,
- 5) The designation of collection areas,
- 6) Transfer Station Operations.

(ii) The Director of Public Services shall have the authority to change or modify procedures pertaining to collection, conveyance, storage and disposal. Disposal of all solid waste shall be only at the location and in the manner specified by the Director of Public Services.

(b) The Director of Public Health

(i) The Director of Public Health shall be responsible for health, safety, environmental and sanitary conditions, as prescribed by the tribe, and shall have authority to establish procedures concerning:

- 1) The storage of solid waste.
- 2) The elimination of nuisances.
- 3) The protection of the environment.
- 4) The protection of the health and welfare of the citizens. The Director of Public Health shall have authority to change or modify procedures pertaining to storage, nuisance, environment, or health.

(c) The Director of Planning

(i) The Director of Planning shall be responsible for the review of building plans, zoning, and working with the Director of Public Services to assure that the location of containers meets appropriate requirements.

3.04 Responsibilities of solid waste program manager; report and removal of nuisances:

Under the supervision and control of the Director of Public Services, there shall be a solid waste program manager, who shall be charged with the collection and disposal of solid waste from the streets, the removal of all solid waste nuisances which may come to his attention, or to the attention of those employed in his division, existing on the streets or other designated public places, and the performance of such other duties as are or may be prescribed by ordinance or by order of the said director.

### 3.05 Fees:

In order to recover operating cost, the tribe may impose a reasonable monthly fee on each residential and commercial site for the collection or transportation of municipal solid waste. Fees will be approved by the Hualapai Tribal Council and fee information will be provided to the public.

## Article IV. Solid Waste Requirements

### 4.01 Accumulation:

- (a) Unlawful accumulation: It shall be unlawful for any person to accumulate or allowed to be accumulated, store, leave, place or deposit, any solid waste on any property within the Reservation as defined in 2.01(ii), except as authorized by applicable permit. It shall be the burden of the alleged violator to show proof of an applicable permit.
- (b) Owners, occupants, and managers of every property shall be responsible for ensuring all open areas are free of improperly stored solid waste accumulations.

### 4.02 Storage

- (a) Containers required: Every residence, business or person handling or accumulating solid waste shall have a container issued by Public Services or an approved solid waste collection agency, which shall be of sound construction resistant to insect or animal entry, and shall remain closed at all times unless adding trash. Solid waste of any type shall not be placed outside the container for collection, unless provided for by this ordinance in Article V or as approved by the Director of Public Services.
- (b) Maintenance of containers; Every person owning, using or handling a container shall be responsible for maintaining containers in an intact, clean, sanitary and closed condition, so as to prevent leakage or spillage. Public Services shall be responsible for any damaged caused by public services employees. It shall be the owner's or user's responsibility not to place solid waste in a defective container. It is the responsibility of the person, other than public service employees, handling or emptying the container not to damage or destroy it or to leave it in an open condition

### 4.03 Placement of containers at collection site and removal.

It shall be the responsibility of the property owner or user of a container, the contents of which are to be collected by Public Services, to:

- (a) Place the container at the edge of pavement of the public street, alley or area designated by the Director of Public Services or designee as the pickup area, so that there is no danger of the container being overturned and so that there is sufficient clearance to accommodate Public Service collection equipment, vehicles and pedestrians.
- (b) For residents and businesses receiving regular weekly solid waste collection, place containers at the collection site no later than 7:00 a.m. on the day of collection and not earlier than 5:00 p.m. on the night prior to the day of collection.

- (c) Remove all emptied containers from the pickup area as soon as practicable after they have been emptied, but in no case later than 11:30 p.m. of the collection day.
- (d) Store containers near the building or residences in a manner where they will not be subject to destruction or vandalism. Where placement as described herein is not possible, an alternate location may be designated and approved by the director of public services.

#### 4.04 Tribal Collection Service, generally

- (a) The Public Services Department shall use its personnel and equipment to collect solid waste from residential property on a regular schedule, which shall be set by the director of public services.
  - (i) The schedule shall state the day(s) for residential collection and commercial collection, and shall be provided to the community.
  - (ii) On these day(s) it is the occupant's responsibility to get refuse out for collection.
  - (iii) In the event of an elderly or handicapped person being unable to move trash collection canisters, the operators are to assist with the collection of trash canisters. A list of elderly and handicap shall be given to the department for compliance, but only with PERMISSION FROM these RESIDENTS
- (b) Every single-family residence and duplex producing solid waste shall be required to pay for Tribal collection, and shall be issued (1) container per family. Multiple residences with more than two (2) units and non-residential structures may receive Tribal collection for a fee.
- (c) Waste shall not be permitted to overflow containers or to be placed outside of containers except as provided in 4.01(b) and Article V. Presence of overflow solid waste shall constitute a violation of this section. Overflow solid waste will not be collected except as provided under Article V.
- (d) Household waste of a loose nature shall be packaged in a disposable container, or bagged before being deposited in a container for collection.
- (e) Persons using authorized collection containers shall be responsible for keeping containers clean, odor-free, and shall place all loose or wet garbage in bags within the container.
- (f) If the Director of Public Services or designee finds that solid waste quantities or location, building design or other factors, are not compatible for solid waste collection by the department and equipment, the solid waste shall be removed by private collectors at the owner's expense. The director of public services or his designee shall give at least thirty (30) days notice of such non-collectability or noncompliance, so that other collection arrangements may be made.
- (g) When the waste exceeds that which can be stored in the allotted containers specified for that location under subsection (b), the director of public services reserves the right to either add a container and increase the fee or require collection be provided by private industry.

#### 4.05 Private Collection

Duties of private solid waste collectors. Each private collector who collects refuse from bulk containers shall have the following duties and responsibilities:

- (a) To place the bulk containers at the locations approved by the department of planning
- (b) To maintain the bulk container in good working order; all moving parts shall be operable; there shall be no holes or gaps in the container, etc.
- (c) To ensure that all doors and lids are properly closed immediately following collection
- (d) To maintain the interior of the container in a sanitary condition in order to minimize offensive odors and fly breeding
- (e) To transport and collect bulk container refuses in such a manner so as to prevent solid waste spillage or leakage. Any solid waste spilled during collection shall be removed by the collector
- (f) All containers are required to have proper lids and always be in good working order.
- (g) To remove solid waste from the bulk containers at a frequency required by the Director of Public Health or designee.

#### 4.06 Transportation:

- (a) Tribal vehicles and private solid waste haulers used for collection and transportation of solid waste shall maintain control of their load as required by the Department of Transportation.
- (b) Residents who decide to transport refuse themselves shall ensure no spillage occurs. If spillage occurs, and the operator fails to immediately return and collect it, then they shall be in violation of this section.

#### 4.07 Disposal

- (a) Disposal to be at approved site. No solid waste material shall be disposed of at any place except at a site or sites authorized and designated for such purpose, and in the manner specified.
- (b) Illegal dumping is prohibited. It shall be unlawful for any person to dump any solid waste on any property or in any waters, except as authorized by permit from the director of public services. It shall be the burden of the alleged violator to show proof of any applicable permits. When a violation of the provisions of this section has been observed by any person and the solid waste dumped has been ejected from a motor vehicle or watercraft, the operator of such motor vehicle or watercraft shall be deemed to be the responsible party.
- (c) Unlawful disposal / treatment of solid waste: No person shall use, cause, or allow land or property under his or her rental or ownership and/or control to be used for solid waste disposal purposes including but not limited to open burning or burying of waste, except as authorized by section 4.08 and 7.02.
- (d) Approved dump sites: Land on the Reservation where the disposal of waste occurs must be determined by the Department of Public Services to be a Municipal Solid Waste Transfer station or a landfill authorized by EPA to accept waste under 40 CFR Part 257. Any other sites shall be considered an illegal dump site.

#### 4.08 Disposal for ceremonial purposes.

As part of ceremonial practices, burning of personal belongs are allowed. Any persons wishing to burn for ceremonial practices must have their location approved by the Tribal Chairperson or Vice Chairperson.

Further, anyone wishing to burn must also notify the fire department prior to the event to ensure that the burning is done in an approved and safe manner.

#### 4.09 Interference with inspections, containers, collection, disposal, etc.

- (a) It shall be unlawful for any person to prevent, detain or impede the inspection of storage areas, containers and housing sites where solid waste is produced, stored or prepared for collection.
- (b) Except for public service employees acting within the scope of their duties, it shall be unlawful for any person to overhaul, overturn, bother or interfere with the contents of any receptacle, plastic bag or container, used for the storage or collection of solid waste or carry away any solid waste from the streets, unless authorized to do so by the Director of Public Services.
- (c) It shall be unlawful for any person to prevent, detain or impede the collection or transportation of solid waste from collection sites or rights-of-way.

### Article V. Collection and Disposal of Certain Wastes

#### 5.01 Dead animals:

- (a) When a domestic animal or farm animal passes on tribal land, it shall be the responsibility of the animal owner to contact the Animal Control within (24) hours to discuss proper disposal.
  - (i) Owner may bury small pets on the owner's property as long as the utility lines are properly marked prior to digging the grave. Notify Public Service Department for utility line information.
  - (ii) Animal Control may also be contacted to pick up and dispose of animals. If the Public Service Department has to be involved, the Director of Public Services reserves the right to charge a minimal fee for the pick up and disposal.
  - (iii) Because exposed dead animals may attract other wild animals which may carry plague or rabies, it shall be unlawful for any animal owner to not properly bury the dead animal at least 3 feet below the ground.
- (b) When an animal is hit by a car and dies, it shall be the responsibility of the driver to contact Animal Control or the Police to arrange for proper disposal, within 24 hrs of the incident.
- (c) If an animal is found dead on the reservation, it shall be the responsibility of the person who found the animal to contact Animal Control with 24 hours of the incident.

#### 5.02 Construction Demolition Debris:

All debris generated by contractors or builders on construction projects shall be collected and disposed of off the reservation at the contractor's expense. After all debris is removed they shall contact Public Service Department for final inspection. On the failure of the contractor or builder to carry out his obligation, it shall be the responsibility of the home owner to clean up the debris.

#### 5.03 Evictions and Move Outs:

Nothing in this section shall override any requirements of Hualapai Housing Department or requirements of the Housing Urban Development Organization (HUD).

- (a) Move outs - It shall be the responsibility of the person moving or being evicted to clean up the property prior to departing. Any unwanted goods shall be placed at roadside for special pick up by the Public Services Department.
- (b) It shall be the responsibility of the person moving or being evicted to notify the Public Services Department if a special pick up is necessary, and pick up should be conducted within a time frame so as not to create a health and safety threat to the community.

5.04 The Director of Public Services reserves the right to establish a fee for special pick-ups.

Fecal matter, non-household organic waste, etc. No fecal matter or other non-household organic waste other than bagged pet waste or bagged food waste shall be placed in any container used for the collection by public service department. It shall be the responsibility of the producer to obtain private collector services for this type of solid waste. It shall be the responsibility of the owners or producers to collect, store, and dispose of such wastes in such a way that the public health and welfare is not prejudiced. Excrement from household pets is excluded from this section, provided it is wrapped and placed in a collection container.

5.05 Hazardous Waste:

No hazardous waste shall be placed in any container used for collection of solid waste or otherwise placed out for collection. It shall be the responsibility of the owner or producer of such waste to legally store, collect and dispose of such waste in accordance with applicable local, state and federal law.

5.06 Lot Clearing & Tree Removal:

Any resident conducting lot clearing or tree removal should contact the Public Service Department and scheduled special pick-up.

5.07 Manure Waste:

The Public Service Department will not collect manure waste. All land applications shall be done in a manner so as not to create a health or safety hazard.

5.08 White Goods:

White Goods may be deposited at the Transfer Station for recycling. If a resident is unable to self transport White Goods, arrangements may be made for a special pick up by contacting the Public Service Department. A responsible party must be present on property at the time of pick-up. Public Service workers will not enter a property without a responsible person present.

## **Article VI. Inoperable and Abandoned Vehicles**

6.01 Inoperable Vehicles; Abandonment Prohibited

Nothing in this Article shall override any requirements of Hualapai Housing Department or requirements of the Housing Urban Development Organization (HUD).

- (a) No more than two (2) inoperable vehicles may be stored on a property without written permission from the Department of Planning.
- (b) A person shall not abandon a vehicle on any land within the boundaries of the Reservation, including but not limited to, any street, highway, roadway, or individual residence.
- (c) A person shall not maintain and store vehicles in a manner that poses a threat to public health or safety.

6.02 Violation; Notice

- (d) A Tribal Police Officer or other person acting under the direction of the Director of Public Health or Director of Public Services may issue a Notice of Abandonment if the person has reasonable grounds to believe that:
  - (i) More than two (2) inoperable vehicles are being stored on a property in violation of section 6.01(a);
  - (ii) The vehicle is lost, stolen, abandoned, or otherwise unclaimed; or
  - (iii) The vehicle is maintained or stored in a manner that poses a threat to public health or safety.
- (e) The Notice of Abandonment shall contain all of the following information:
  - (i) A complete description of the vehicle.
  - (ii) The vehicle license or registration number, if any.
  - (iii) The name and address of the lien holder, if any.
  - (iv) Notice of which violation has been committed with a brief explanation of how to cure the violation.
  - (v) Notice that the vehicle will be removed and taken into the custody of the Hualapai Tribe unless the violation is cured within 72 hours.
  - (vi) Notice that vehicles remaining unclaimed 30 days after removal shall be disposed of by the Hualapai Tribal government.
  - (vii) Information on which government agency to contact to retrieve the vehicle should it be removed.
  - (viii) Other information required by the Director of Public Health.

- (f) The Notice of Abandonment shall be considered served when it is either hand-delivered or mailed certified to persons or entities with an interest in, or claim to the vehicle or when it has been attached to the vehicle in an obvious and conspicuous location.
- (g) A copy of the Notice of Abandonment shall be delivered to the Public Health Department.
- (h) The Hualapai Police Chief, Fire Chief or designees may or Director of Public Services shall use reasonable efforts to identify persons or entities with an interest in, or claim to the vehicle, and serve the Notice of Abandonment on such persons or entities.

#### 6.03 Disposal

- (a) If a claim has not been made for the return or possession of the vehicle within thirty (30) days from the date the Notice of Abandonment is served on all persons required under section 6.02, ownership of the vehicle shall be transferred to the tribe free and clear of all liens or encumbrances.
- (b) If the vehicle cannot profitably be dismantled or salvaged for parts and cannot be profitably restored, the vehicle shall be removed from the Reservation and disposed of in accordance with applicable law.

### **Article VII. Transfer Station Requirements**

#### 7.01 Facility Maintenance:

The Transfer Station shall be maintained in a neat, sanitary and orderly manner, minimizing blowing papers and other debris. Only household and commercial non-hazardous wastes shall be accepted at the transfer station.

#### 7.02 Facility Operation:

The Transfer Station shall operate in accordance with the Transfer Station Standards of Operation Manual.

### **Article VIII. Recycling**

8.01 The following items are currently recycled at the Solid Waste Transfer Station: cardboard, aluminum, and steel, and lead acid batteries.

8.02 Nothing herein contained shall prohibit a person from donating or selling recyclable material to any person.

8.03 The Department of Public Services reserves the right to institute a community wide recycling program.

### **Article IX. Enforcement & Violations**

#### 9.01 Enforcement

The following enforcement persons are authorized to issue citations for violations of any provision of this ordinance:

- (a) Hualapai Police Chief or designee,



(b) Fire Chief or designee

9.02 Executor, trustee, agent, etc. deemed owner of property.

When any person is in possession of any property, or has charge thereof, within the Reservation as executor, agent, trustee, guardian, or conservator, such person shall be deemed to be the owner of such property for the purposes of this Ordinance and shall be bound to obey all requirements of this Ordinance so far as the same may affect such property, in the same manner, and subject to the same penalties and fines, as if such person were actually the owner of such property, and notice to such person shall be deemed sufficient.

9.03 Notice of violation:

- (a) Any official, as described in Section 9.01, observing a violation of any section of this ordinance, may issue a notice of violation to the person(s) responsible for such violation.
- (b) Notice may be hand delivered or mailed certified through the United States Postal Service to the residence or place of business of the responsible party, and/or posted at the site of violation. The notice of violation shall be considered served once hand-delivered, placed in the mail certified, and/or posted at the site of violation.
- (c) Any person(s) sited shall be obligated to take immediate remedial steps to correct any and all conditions which constitute a violation of this ordinance. Such corrections shall be undertaken promptly and shall be completed within such time as may be allowed by officials responsible for requiring the corrective measures.

**Article X Commencement of Action**

10.01 Commencement, Service

The Hualapai Police Chief, Fire Chief or designees may commence a civil action for violations of this Ordinance by filing a written complaint in the manner provided by section 4.1 of the Hualapai Law and Order Code. Service of Process shall be accomplished in the manner provided by section 4.5 of the Hualapai Law and Order Code.

10.02 Proceedings

- a) A person served with a civil citation shall:
  - i. Appear at the time and place designated by the Tribal Court
  - ii. Admit or deny the allegation of the citation
- b) If the allegations are admitted, the Court shall enter judgment for the tribe and shall order appropriate relief pursuant to Article XI. The person may admit the allegations with an explanation. In determining the civil fine, the Court may consider the explanation submitted.
- c) If the allegations are denied, the Court shall set the matter for a hearing, and shall notify the accused of any rights. The hearing is informal and without a jury. At the hearing the tribe is required to prove the violation charge by a preponderance of evidence. The evidentiary rules in section 3.8 of the Hualapai Law and Order Code shall apply. Hearings may be recorded. If the Court finds in favor of the

defendant, the case shall be dismissed. If the Court finds in favor of the tribe, the Court shall order appropriate relief pursuant to Article XI.

- d) If a person served with a civil complaint under section 10.01 of this Ordinance fails to appear at or before the time directed to appear, the allegations in the complaint shall be deemed admitted and the Court shall enter judgment for the tribe and order appropriate relief pursuant to Article XI.
- e) Any person cited has appellate rights as provided in Chapter 10 of the Hualapai Law and Order code.

### **Article XI Penalties**

#### **11.01 Assessment of fees, fines and other penalties**

- a) Any person who violates or fails to comply with a provision of this ordinance may be subject to a civil penalty with a minimum of (\$250) per violation and not to exceed (\$5,000) per violation, per day.
- b) In determining the amount of a civil penalty for a violation under subsection (a), the Court shall consider the following factors:
  - (i) The seriousness of the violation or violations.
  - (ii) The economic benefit, if any, that results from the violation.
  - (iii) Any history of similar violations.
  - (iv) Any good faith efforts to comply with the applicable requirements.
  - (v) The economic impact of the penalty on the violator.
  - (vi) The extent to which the violation was caused by a third party
  - (vii) Other matters as justice may require
- c) The Court, in its discretion, may award costs and reasonable attorneys' fees incurred by the tribe as a result of the violation
- d) The Court, in its discretion, may order the performance of community service in lieu of or in addition to any imposed civil penalty. Such community service shall be supervised by the Public Health Department or Public Services Department.
- e) The Hualapai Police Chief, Fire Chief or designees may request a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief necessary to protect the public health if the Hualapai Police Chief, Fire Chief or designees may have reason to believe that a person is creating an actual or potential endangerment to the public health or environment because of acts performed in violation of this Ordinance.

#### **11.02 Collection of fees & fines**

All monies collected pursuant to this ordinance shall be remitted to the Tribal Accounting Department General Fund Account and shall be used to defray the cost of administering this ordinance pursuant to a budget approved by Tribal Council.

SUBTITLE N. SOLID WASTE ORDINANCE

HUALAPAI TRIBAL COUNCIL  
RESOLUTION NO 20-97  
OF THE GOVERNING BODY OF THE  
HUALAPAI TRIBE OF THE HUALAPAI  
RESERVATION

WHEREAS, there is a need to regulate the storage, collection, and disposal of solid waste on the Hualapai Reservation; and

WHEREAS, the Hualapai Tribe has appointed the Department of Public Services to supervise and initiate solid waste management planning for the Hualapai Reservation; and

WHEREAS, the Tribe has fulfilled three years of contracted work with the Environmental Protection Agency through the "Solid Waste Management Planning Grant", in which an Integrated Solid Waste Management Plan and Ordinance was researched and developed; and

WHEREAS, the "Hualapai Solid Waste Management Ordinance" has been reviewed and edited by the 1) the Hualapai Tribe's legal counsel, 2) the Inter-Tribal Council of Arizona's legal counsel, 3) the Hualapai Law and Order Committee, 4) the Hualapai Tribal Council, 5) EPA Region 9, and 6) the Hualapai community for the duration of three months allowing public commentary; and

WHEREAS, approximately \$300,000 is currently available for landfill closure, and the Hualapai Transfer & Recycling Center is operational providing disposal services to the Hualapai Community.

NOW THEREFORE BE IT RESOLVED THAT the Hualapai Tribal Council formally adopts the "Hualapai Solid Waste Management Ordinance" as public law, for the purpose of regulating solid waste storage, collection, and disposal procedures on the Hualapai Reservation; and for the purpose of establishing standards of public health and sanitation which are in compliance with Federal and State regulations.

C E R T I F I C A T I O N

I, the undersigned as Chairman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 6 constituting a quorum were present at a **REGULAR COUNCIL MEETING** thereof held on this **10th day of March, 1997**; and that the foregoing resolution was duly adopted by a vote of 4 for 1 against, 1 not voting, and 3 excused, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.

*Earl Havatone*  
Earl Havatone, Chairman  
Hualapai Tribal Council

ATTEST

*Christine Lee*  
Christine Lee, Secretary  
Hualapai Tribal Council

# HUALAPAI SOLID WASTE MANAGEMENT ORDINANCE

**Ordinance of the Hualapai Tribal Council**

*March 1997*

## **ORDINANCE OBJECTIVES:**

- 1) Establishes procedures by which the Hualapai Tribal Court may review and enforce the legislative intent of the Solid Waste Ordinance; provides for fines pursuant to violations, enforcement, and administrative hearings.
- 2) Provides for duties of the Tribe's Solid Waste Agency, the Hualapai Solid Waste Agency (HWA).
- 3) Provides for general requirements regarding solid waste storage, disposal and collection; provisions relative to enforcement; definition of violations and prohibited acts; provides general requirements regarding Municipal Solid Waste Landfills (MSWLF) operations and tribal Transfer Stations.

*BE IT ENACTED by the Hualapai Tribal Council:*

CHAPTER ONE  
GENERAL PURPOSES & LEGISLATIVE INTENT

- Section 1.101 Short Title
- Section 1.102 The Tribe's Inherent Sovereign Power to Manage And Regulate Solid Waste On The Reservation.
- Section 1.103 The Tribe's General Solid Waste Policies.
- Section 1.104 Purposes, Interpretation & Application of the Ordinance.
- Section 1.105 The Tribe's Sovereign Immunity.
- Section 1.106 Consensual Relations Among Non-Members, The Tribe, And Tribal Members.
- Section 1.107 Amendments To The Solid Waste Management Ordinance.
- Section 1.108 Fees And Taxes.
- Section 1.109 Severability.
- Section 1.110 Definitions.

**Section 1.101 Short Title.**

This Ordinance shall be known as the Hualapai Tribe's Solid Waste Management Ordinance (herein "the Ordinance").

**Section 1.102 The Tribe's Inherent Sovereign Power to Manage And Regulate Solid Waste On The Reservation.**

The Hualapai Tribe (herein "the Tribe") possesses the inherent sovereign power to manage and regulate the storage, collection, transportation, handling, treatment and disposal of solid waste on the Hualapai Reservation (herein "the Reservation"), which is anywhere within the exterior boundaries of the Reservation or other lands within the Tribe's jurisdiction.

The Tribe is a sovereign Indian Tribe, and the inherent jurisdiction of the Tribe extends to all lands within the boundaries of the Reservation as established by Executive Orders of January 4, 1883 and June 2, 1911, and Public Law 93-560, December 30, 1974 and to any lands held by the Tribe, and trust allotments located outside the Reservation boundaries. The title to these lands includes but is not limited to all the surface rights, subsurface rights, tenements, hereditaments, all water rights and all accretions and that such lands are held by the United States of America in trust for the Tribe.

Because any violations of this Ordinance or any regulations adopted thereunder will demonstrably and seriously impact the environment including land, water and air, natural resources, public health, safety, welfare, political integrity, and economic security of the Tribe, this Ordinance, and any regulations adopted thereunder, shall apply to: (1) all persons within the exterior boundaries of the Reservation, without exception, including but not limited to, all Tribal members, and all other persons on the Reservation, including any Indians who are members of other Indian Tribes, all non-Indians, and any other person as defined under the Ordinance; and (2) all places and lands located anywhere within the exterior boundaries of the Reservation, including all trust and non-trust lands.

and notwithstanding the issuance of any patent, fee, allotment, right-of-way, lease, or any real property interest of any kind, held by any person as defined under the Ordinance.

### **Section 1.103 The Tribe's General Solid Waste Policies.**

Technical consultation for the Hualapai Tribe will be obtained from EPA and IHS regarding federal sanitation standards. Nothing in this Ordinance shall be deemed to conflict with any valid laws or regulations of the United States. The Tribe desires to manage and regulate the disposal of solid waste on the Reservation and to promote recycling in order to protect the Tribal environment, its natural resources, and the health, welfare, political integrity, and economic security of the Tribe, its members, and residents living on the Reservation or other tribal lands. The owner, agent, occupant, permittee, allottee or lessee of any residential or homesite area, business establishment, industry, customary use area or grazing area shall be responsible for the sanitary condition of said premises.

The Tribe and certain Federal agencies may be required by Federal law to comply with the disposal of solid wastes on the Reservation under the Federal Solid Waste Disposal Act (herein "the SWDA"), as amended by the Resource Conservation and Recovery Act (herein "RCRA"), 42 U.S.C.A. 6901-6992, and more specifically, Subchapter IV, "State or Regional Solid Waste Plans," SWDA 4001-4010, 42 U.S.C.A. 6941-6949(a), as well as with the various solid waste regulations promulgated thereunder by the U.S. Environmental Protection Agency (herein "EPA"), including the comprehensive final rules and regulations contained in 40 CFR Part 258, (herein "the Part 258 Criteria"), for the location, design, operation, closure, post-closure, and financial assurance requirements for municipal solid waste landfills ("MSWLFs"). The Tribe intends to comply with the SWDA and the Part 258 Criteria.

### **Section 1.104 Purposes, Interpretation & Application of the Ordinance.**

The general purposes of the Ordinance are to:

- 1) Protect the health, welfare and safety of Tribal members and all other persons within the exterior boundaries of the Reservation or other lands within the Tribe's jurisdiction;
- 2) Prevent the deterioration of the environment, standard of living, quality of life, welfare and well-being of all persons within the exterior boundaries of the Reservation;
- 3) Protect the cultural, social and economic stability of residential, agricultural, commercial, industrial, forest wetlands, riparian, and environmentally sensitive lands within the Reservation.
- 4) Prevent air, water, and land from solid and hazardous waste pollution, including contamination of the Tribe's aquifers, ground waters, surface waters, drinking water supplies, and all other natural resources

- 5) Provide and promote Tribal environmental protection and services within the Reservation, and to regulate environmental activities under principles of Tribal sovereignty; and
- 6) Finance, implement, regulate, and enforce environmental standards and criteria, orders and permit conditions, and laws and regulations under the Ordinance, for the sanitary storage, collection, transportation and disposal of all solid waste within the exterior boundaries of the Reservation.

#### **Section 1.105 The Tribe's Sovereign Immunity.**

Neither the Ordinance, nor the Tribe's solid waste program, nor any action or agreement of HSWA, shall be construed as, or is intended to be, a waiver or modification of any sovereign immunity now enjoyed by the Tribe, or a consent by the Tribe to jurisdiction or suit against it.

The Tribe reserves the right to contest the jurisdiction of the Federal Court in any citizens' suit filed against it under Section 7002 of the SWDA, except only as such jurisdiction may be expressly waived by the Tribe in such suit.

The Tribe, the Council and its members; HSWA, and its Program Manager and employees; and all Tribal officers, employees, representatives, or agents thereof, who are performing their duties by implementing or enforcing the Ordinance and Tribe's solid waste program, are immune from suit for monetary damages in any court of law, and they do not waive any of their sovereign rights or immunities, executive privileges or right to privacy or confidentiality.

The Tribe and HSWA may enter into such contracts as are authorized by the Council for the purpose of implementing or enforcing the Ordinance and the Tribe's solid waste program; provided that such contracts shall not be construed to be a waiver of the sovereign rights or immunities of the Tribe, or any board, agency, commission, entity, officer, employee, representative, or agent thereof.

#### **Section 1.106 Consensual Relations Among Non-Members, The Tribe, And Tribal Members.**

Any person who is not a member of the Tribe who uses land anywhere within the exterior boundaries of the Reservation, whether trust or non-trust land, enters into consensual relationships with the Tribe or its members, through commercial dealings, contracts, leases, or other arrangements. Such person's use of land involving the storage, collection, transportation, and disposal of solid waste on the Reservation will have a demonstrably serious impact upon the environment, natural resources, public health, safety, welfare, political integrity, and economic security of the Tribe, and its members, unless such use is in compliance with the provisions of this Ordinance, and any regulations promulgated thereunder.

#### **Section 1.107 Amendments To The Solid Waste Management Ordinance.**



The Hualapai Tribal Council reserves the sole right to amend The Solid Waste Management Ordinance and to issue rules effecting all aspects of the Ordinance. Provisions in the Ordinance allow the Hualapai Tribal Council full flexibility to enact measures which will be of benefit to the Tribe. The inclusion of these provisions do not necessitate their implementation, such as MSWLFs from sources within or without the Reservation. The inclusion of these provisions, however, allows Council the flexibility to alter the Ordinance according to the evolving needs of the Hualapai community.

Any person who is anywhere within the exterior boundaries of the Reservation, whether on trust or non-trust lands, agrees to comply with, and is subject to the Ordinance, and any rules or regulations promulgated thereunder; all Tribal laws; and all orders of HSWA, and Tribal Court. All such persons shall have consented to the civil jurisdiction of the Hualapai Tribal Court (herein "the Tribal Court"), and shall be subject to civil prosecution, civil penalties, civil damages, or any other civil remedies imposed or awarded by the Tribal Court for any violations of the Ordinance, or any regulations promulgated thereunder.

#### **Section 1.108 Fees And Taxes.**

In order to recover operating costs, the Tribe may impose reasonable fees on each permittee who constructs or operates an MSWLF or collects and transports solid waste. Any fees to be imposed by the Tribe shall be specifically referred to in each permit. In addition, the Tribe may impose taxes on each permittee who operates an MSWLF or collects and transports solid waste. The payment of such fees or taxes shall be a condition of maintaining such permit.

#### **Section 1.109 Severability.**

If any part of this Ordinance or its application is declared to be invalid for just cause and/or reason, the remainder of this Ordinance shall remain in effect unless the invalidity is of such nature as to defeat the purpose of the entire Ordinance.

#### **Section 1.110 Definitions.**

The Hualapai Tribe incorporates by reference the definitions set forth in 40 CFR 257 and 40 CFR 258 to extent that such definitions are not in conflict with the following defined terms. Terms may also be defined in the specific sections to which they apply. Additional definitions may be added in any regulations promulgated under this Ordinance.

**Program Manager.** The administrative manager of HSWA for the Hualapai Tribe, who is supervised by the Director of the Hualapai Department of Public Services. The Program Manager is the chief officer of the Tribe's Solid Waste Management program which regulates and monitors the Tribe's municipal solid waste disposal and permit program as is required under 40 CFR part 258.

**Municipal Solid Waste Landfill Unit or MSWLF** A discrete area of land or an excavation

that receives household waste, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257. A MSWLF unit also may receive as authorized under the SWDA, other types of RCRA Subtitle D wastes, such as, commercial solid waste, nonhazardous sludge, and industrial solid waste. The Ordinance, however, prohibits the disposal of certain solid wastes in a MSWLF that would otherwise be permitted under the SWDA, such as, the conditionally exempt small quantity hazardous generator waste. A MSWLF may be publicly or privately owned. A MSWLF unit may be a new unit, an existing unit or a lateral expansion. A lateral expansion is the horizontal expansion of the waste boundary of an existing unit. A MSWLF must comply with all of the criteria under this Code.

**Person.** Any trust, firm, association, company, partnership, public or private corporation, Indian Tribe, corporation or business pursuant to Tribal Charter, political subdivision, government agency, municipality, industry, any legal entity or private enterprise, and all natural persons including members of the Hualapai Tribe, all other Indians that are not members of the Hualapai Tribe, and all non-Indians.

**Recycling.** The process of sorting, cleansing, treating, and reconstituting solid waste or other discarded material in order to prepare the altered form for use.

**Sanitary.** The maintenance of a location or parcel of Reservation land in which the following circumstances are avoided, including but not limited to: 1) failure to contain solid waste resulting in windswept garbage, 2) overbearing odors which represent a general public nuisance, 3) on-site materials which present a fire hazard to the community, and 4) on-site materials or a collection of solid waste which presents a human health hazard.

**SWDA.** The Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 ("RCRA") AND THE 1984 Hazardous and Solid Waste Amendments ("HSWA") to RCRA, and more particularly, subchapter IV - State or Regional Solid Waste Plans, SWDA 4001-4010, 42 U.S.C.A. 6941-6949(a), which requires that the EPA promulgate criteria for MSWLFs, and which prohibits disposal of solid waste at landfills which do not satisfy such criteria. The 40 CFR Part 258 regulations contain the criteria for MSWLFs, which became generally effective October 9, 1993, although there are other effective dates under 40 CFR Part 258.

**Tribal Council or Council.** The governing body of the Hualapai Indian Tribe.

**Tribal Court.** The Tribal Court of the Hualapai Indian Tribe.

**Tribe or Tribal.** The Hualapai Indian Tribe.

**Tribe's Solid Waste Disposal Program.** All the authorities, activities and procedures under the Ordinance, the Tribe's Waste Management Plan, and any other Tribal laws or regulations that comprise the Tribe's system of permits, and prior approval and conditions for regulating the collection, handling, transportation, and disposal, treatment and storage of solid waste, including all

of the location, operation, design, groundwater monitoring, corrective action, closure, post-closure and financial assurance requirements under the Part 258 Criteria for MSWLFs.

Tribe's Solid Waste Management Plan. The formulation of Tribal policies for all solid waste collection, handling, transportation, disposal, treatment, storage, recycling and resource conservation on or off the Reservation.

CHAPTER TWO  
DUTIES & AUTHORITIES OF HSWA

- Section 2.101 The HSWA Is The Tribe's Solid Waste Agency.
- Section 2.102 General Powers And Duties of HSWA.
- Section 2.103 The Director Of The Hualapai Department Of Public Services And HSWA.
- Section 2.104 Duties Of The Program Manager Of HSWA.
- Section 2.105 HSWA Shall Issue Permits For The Location, Construction, Design, Operation, Closure, Post-Closure of, And Financial Assurance Requirements For MSWLFs And For The Collection And Transportation Of Solid Waste.
- Section 2.106 Duty of HSWA To Investigate The Activities Of Any Non-Residential Permittee Under The Ordinance.
- Section 2.107 Power Of HSWA To Conduct Hearings.
- Section 2.108 Power Of HSWA To Take Remedial Action, Assess Civil Penalties, And Revoke, Suspend Or Modify Permits.
- Section 2.109 Duty of HSWA To Issue Solid Waste Guideline Documents.
- Section 2.110 HSWA Shall Prepare And File An Annual Report With The Tribal Council.
- Section 2.111 HSWA Shall Make Recommendations To The Council Regarding Modifications.

**Section 2.101 The HSWA Is The Tribe's Solid Waste Agency.**

The Tribe's Solid Waste Program will be supervised by HSWA, which is hereby designated as the "responsible agency" for all purposes under 40 CFR Part 258.

**Section 2.102 General Powers And Duties of HSWA.**

HSWA shall be authorized to implement, administer, and enforce the Ordinance and the Tribe's solid waste program pursuant to all of the powers and duties delegated to it herein. HSWA is not authorized to consent to jurisdiction, liability, or waiver of sovereign immunity.

**Section 2.103 The Director Of The Hualapai Department Of Public Services And HSWA.**

HSWA shall be a program supervised by the Director of the Department of Public Services. The Director shall be the designated individual accountable to the Hualapai Tribal Council for the administration of the solid waste program. A Program Manager will perform the assigned tasks as outlined by the Ordinance. In the absence of a Program Manager of HSWA, the Director or the Assistant Director of the Department of Public Services, or a qualified Staff member will assume all responsibilities for management of the solid waste program. The responsibilities and authority vested in the Program Manager will automatically be assumed by either the Director, Assistant Director, or Staff member in the administration of this Ordinance.

**Section 2.104 Duties Of The Program Manager Of HSWA.**

The Program Manager shall manage the Solid Waste Program on a day-to-day basis, acting within the scope of his duties and powers. The specific duties of the Program Manager of the Solid Waste Program shall include but not be limited to:

- 1) The implementation of the Tribe's Solid Waste Management Plan pursuant to the requirements of the Ordinance, the SWDA, and 40 CFR Parts 257 and 258. The goal of this plan shall be the proper collection and disposal of all solid waste on the Reservation in accordance with the above cited requirements.
- 2) The development of regulations and guidance documents which supplement the technical standards and criteria for the location, construction, design, operation, closure, and post-closure requirements for MSWLFs; and which also provide the technical standards and criteria for the collection and transportation of solid wastes.
- 3) The preparation of an inventory and location of all sites on the Reservation where solid waste has been disposed, and a plan to close all sites as is required under 40 CFR Part 258.
- 4) The location of appropriate sites on the Reservation where MSWLFs might be located in compliance with the Ordinance and 40 CFR Part 258.
- 5) The preparation of technical reports for the Council, as may be requested from time to time.
- 6) The administration, supervision, monitoring, investigation, and enforcement of solid waste collection, transportation, and disposal on the Reservation in compliance with the Ordinance, and all regulations and guidance documents promulgated thereunder.
- 7) The investigation and preparation of applications for Federal or State grants, funding, and financial and technical assistance to implement the Tribe's solid waste program.
- 8) The provision of assistance in public education as to matters involving solid waste collection and disposal on the Reservation; and assistance in any public, judicial, or administrative hearings, as provided for under the Ordinance.
- 9) The supervision of the daily management of the Tribe's Solid Waste Program, and the hiring and management of any employees of the Solid Waste Program hired by the Tribe.
- 10) The issuance of compliance, cease and desist and remedial action orders to any permittee under the Ordinance and the application for injunctive relief to abate pollution and other unlawful activities under the Ordinance.

Section 2.105 HSWA Shall Issue Permits For The Location, Construction, Design, Operation, Closure, Post-Closure of, And Financial Assurance Requirements For MSWLFs

And For The Collection And Transportation Of Solid Waste.

HSWA shall have the authority and responsibility to issue permits for the location, design, construction, operation, closure, and post-closure of, and financial assurance requirements for any MSWLFs on the Reservation, upon Tribal Council approval of proposed MSWLFs. HSWA shall also have the authority and responsibility to issue permits for the collection and transportation of solid waste on the Reservation.

**Section 2.106 Duty of HSWA To Investigate The Activities Of Any Non-Residential Permittee Under The Ordinance.**

Upon complaint by any person which establishes reasonable grounds, or upon its own motion, HSWA shall investigate the activities of any non-residential permittee under the Ordinance. In conducting an investigation, HSWA shall, under authority of a court warrant, enter into the permittee's place of business, operation, or facility, to inspect any books or records of the permittee, to inspect any of the permittee's property, or sites of possible pollution, and to take samples. In addition, HSWA may require or monitor such tests as it deems necessary, to ensure that the provisions of the Ordinance, the regulations thereunder or any permit conditions, are being complied with by any owner/operator of an MSWLF or transporter of solid waste. Such authority may only be exercised by the Program Manager of HSWA, or individuals specifically authorized by the Tribal Council.

**Section 2.107 Power Of HSWA To Conduct Hearings.**

In addition to other powers conferred upon it herein, HSWA shall have the power to hold all public or administrative hearings specifically provided for under this Ordinance.

**Section 2.108 Power Of HSWA To Take Remedial Action. Assess Civil Penalties, And Revoke, Suspend Or Modify Permits.**

The power of HSWA to enforce compliance with the Tribe's solid waste disposal program includes the authority to revoke, suspend or modify permits, and to assess civil penalties for Tribal Court review. (See Chapter Five: Enforcement, Administrative Hearings and Judicial Review).

**Section 2.109 Duty of HSWA To Issue Solid Waste Guideline Documents.**

HSWA may issue "Guidance Documents" as part of the Tribe's solid waste program, which shall contain specific technical or scientific criteria. Criteria may include information for implementing the location, construction, design, operation, closure, post-closure requirements for MSWLFs. Guidance documents may supplement the Part 258 Criteria, but any criteria set forth in any guidance document shall not be in conflict with any Part 258 Criteria, or contain any criteria which are less stringent than the Part 258 Criteria. Guidance documents issued by HSWA may, however, provide more stringent criteria for MSWLFs than are required by the Part 258 Criteria. Guidance documents

shall be enforceable if they are specifically referenced or attached as part of, or as a condition of, any permit issued under the Ordinance.

**Section 2.110 HSWA Shall Prepare And File An Annual Report With The Tribal Council.**

HSWA shall prepare and file an annual report with the Council no later than March 1st. of each year, which shall review the progress achieved under the Tribe's solid waste program and shall include any reports requested by the Tribal Council. HSWA shall recommend what specific actions should be taken by the Council regarding the Tribe's solid waste program.

**Section 2.111 HSWA Shall Make Recommendations To The Council Regarding Modifications.**

All regulations, provisions, program modifications, and enforcement procedures which are promulgated by HSWA within the scope of its authority and responsibility and which would alter or amend the Ordinance shall be submitted to the Council for its approval and adoption before becoming enforceable as Tribal law.

**CHAPTER THREE**  
**SOLID WASTE MANAGEMENT REQUIREMENTS**

- Section 3.101 Solid Waste Disposal.
- Section 3.102 Solid Waste Storage.
- Section 3.103 Solid Waste Collection.
- Section 3.104 Solid Waste Collection Vehicles.
- Section 3.105 Commercial Compliance.
- Section 3.106 Landfill Requirements.
- Section 3.107 Indemnification.

**Section 3.101 Solid Waste Disposal.**

1) Designated Collection & Disposal Sites: Designated collection and disposal sites shall be determined by HSWA with approval from Council. Any landfill site on the Reservation which has not been determined by HSWA to be an MSWLF or a landfill authorized to accept waste under 40 CFR Part 257 shall be considered an open dump site.

2) Designated Transfer Stations: Designated Transfer Stations which accept solid waste shall be maintained in a neat, sanitary and orderly manner, minimizing blowing papers and other debris. Only household and commercial solid waste shall be accepted at transfer stations. No industrial wastes, infectious wastes, or construction or demolition debris from licensed contractors shall be accepted unless specifically approved by HSWA. Solid waste capable of recovery shall be stored in clearly identified areas and maintained in a safe, sanitary and orderly condition. Suitable fencing, gates and signs shall be provided. Adequate fire protection, necessary to ensure the safety of employees and deal with accidental burning of solid waste within the transfer station facility shall be included in a fire protection plan.

3) Designated Community Landfills: Designated community landfills approved by Council which accept solid waste disposal shall be designed, constructed, maintained and operated according to RCRA standards, having received appropriate permits from HSWA and the Council, as provided in Chapter 4.

4) Public & Private Lands: No person shall dispose of any solid waste on any private residential property or public property where disposal of such wastes will cause a public nuisance or health hazard, by generating foul odors, by serious infestation of vectors such as rodents or insects, by stockpiling solid waste on private property and failing to transport it to designated solid waste disposal locations or to be responsible for its removal through garbage collection service, by obstructing public transportation routes with solid waste, or by any other means of disposal which creates hazardous conditions.

5) Waters on Tribal Lands: No person shall dump or deposit solid waste of any kind or



volume into waters on the Reservation or other tribal lands.

6) Littering: No person shall dispose of litter onto any tribal or county highways, roads, or rights of way.

7) Hazardous Waste: Transportation of a regulated hazardous waste must be in full compliance with Federal law, or is otherwise unlawful. The collection, storage, transfer, transportation, and disposal off the Reservation of conditionally exempt small quantity hazardous waste generated on the Reservation or other tribal lands is subject to such regulations as HSWA may issue. Any violation of such regulations is expressly prohibited.

8) Abandoned Vehicles: In the event that ownership of an automobile be unidentifiable, community notice shall be given by HSWA through the community newspaper, Gamyu?, local fliers, and contact with the Hualapai Housing Authority concerning the location of abandoned vehicles slated for removal and disposal. Two weeks time shall be given for response by the community to allow for contest of ownership. If ownership is not established through any individual or tribal department, HSWA shall be authorized to remove abandoned vehicles and dispose of them in a manner approved by Council.

9) Large Shrubbery & Debris: Large volumes of shrubbery, tree limbs, grass and vegetation may be control-burned as long as on-site supervision is provided by the Hualapai Volunteer Fire Team or BIA fire fighting units.

10) Large Household Items & Appliances: Large items may be deposited at community transfer stations for recycling. Refrigerators containing Freon shall be segregated at community transfer stations for disposal by HSWA.

11) Commercial Debris: All commercial debris generated by contractors or builders on construction projects shall be collected and disposed of off the Reservation. Contractors shall provide their own solid waste disposal, and contact HSWA to identify the procedures they will be employing for waste removal.

### Section 3.102 Solid Waste Storage.

1) Sanitary Site Conditions: The owner, agent or occupant of any dwelling, residence, premises, or business establishment shall be responsible for the sanitary condition of said residence, premises, or business establishment. No person shall place, deposit or allow to be placed or deposited on any public street, road or alley refuse.

2) Storage of Solid Waste for Collection: The owner, agent or occupant of any dwelling, residence, premises or business establishment shall be responsible for the storage and stockpiling of all solid waste accumulated for collection and disposal.

3) Container Specifications: Commercial establishments shall be required to store garbage in durable, rust resistant, non-absorbent and easily cleanable containers with close-fitting covers. Residential canisters shall be compatible to the Tribe's side-loading compaction truck where tribal collection of solid waste is utilized. Residents who opt to transport solid waste to community transfer stations, shall be required to haul their solid waste in such a way that it does not result in littering or wind-swept garbage, and that they maintain sanitary conditions.

4) Ashes: Ashes, warm or cold, shall not be placed in plastic containers.

5) Hazardous Wastes: It shall be the responsibility of each occupant, business establishment or agency to locate a disposal service operating an EPA-approved site which accepts hazmat and to arrange for its disposal.

### **Section 3.103 Solid Waste Collection.**

1) Arrangements for Collection: Individuals or businesses may arrange with the Tribe for collection of solid waste through HSWA or through other non-tribal vendors. Individuals may arrange to purchase canisters from HSWA if they do not intend to have HSWA provide weekly collection services.

2) Collection Fees: HSWA shall propose to the Council collection fees to be charged for tribal collection service. The Council shall be responsible for the adoption of fees. Such fees shall be based on the funding necessary to cover the cost of solid waste containers, and the operating and capital costs of all tribal solid waste collection facilities and systems.

3) Payment of Fees: Agencies, businesses or other organizations which obtain collection of solid waste through HSWA shall make payments of collection fees to the Tribal Treasurer, and accounted to the Solid Waste Service Fund.

4) Collection Guidelines: HSWA shall provide each subscriber, household or business establishment with a copy of the requirements governing the storage and collection of refuse, which shall contain definitions, scheduled days for collection, materials acceptable for collection, materials not acceptable for collection, and collection fees and payment procedures.

5) Suspension of Collection Services: After written warning, HSWA may suspend any collection of solid waste from any household or other collection site if any provision of the Ordinance or regulations promulgated thereunder is violated at the site, until compliance is adequately exhibited.

### **Section 3.104 Solid Waste Collection Vehicles.**

1) Collection Vehicle Specifications: Vehicles used for collection and transportation of solid waste shall have covered, water-tight metal bodies of easily cleanable construction, cleaned frequently to prevent insect breeding, odors or other nuisances, and shall be maintained in good repair

2) Private Vehicle Operations: Private vehicles used for collection and transportation of solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill from the vehicle. Where spillage does occur, it shall be picked up immediately by the transporter and returned to the vehicle.

3) Tribal Vehicle Operations: Operators of tribal vehicles used for the collection and disposal of solid waste shall drive the collection vehicle at safe speeds through the community and obey all laws relative to traffic safety. Operators shall receive a verbal warning from HSWA in the event of misconduct, and written warning upon a second infraction; thereafter, employment of the Operator will be revoked according to the discretion of the Director of the Department of Public Services if the Operator does not exhibit improved driving skills.

4) Elderly & Disabled Assistance: Operators of garbage trucks are required to assist disabled or elderly members of the community in the collection of their residential solid waste according to guidelines by HSWA. Guidelines shall include definitions of circumstances which warrant assistance.

5) Restricted Vehicle Usage: Operators of solid waste collection vehicles shall act as authorized representatives of HSWA and shall make periodic inspections of any container, equipment or vehicle used for collection purposes, storage, transportation or disposal of solid waste to insure compliance with this Ordinance and the regulations thereunder.

### **Section 3.105 Commercial Compliance.**

HSWA may require any commercial collector or transporter of solid waste to reasonably demonstrate compliance with this Ordinance, and to acquire information or perform tests which display compliance.

### **Section 3.106 Landfill Requirements.**

1) Sovereign Immunity: Compliance to Federal Standards regarding this Ordinance does not waive sovereign immunity. While Congressional Amendments to RCRA require State and Tribal entities to develop and implement programs which ensure MSWLFs comply with Federal Criteria, the Tribe is under no legal obligation to comply. However, sub-standard solid waste collection and disposal operations which result in negative impact to the community and environment may invite legal suit in a Federal court. Compliance is in the best interest of the Tribe, and adoption of this Ordinance signifies the intent to implement Federal criteria for MSWLFs and solid waste management planning.

2) MSWLFs: Planning for any MSWLF on the Reservation shall require Tribal Council approval and public notification

3) Federal Standards: All operators of landfills located with the exterior borders of the Hualapai Reservation or other lands within the Tribe's jurisdiction shall be required to fully comply

with the standards and criteria of 40 CFR Part 258, as they are amended from time to time, including but not limited to the location, design, performance, operating standards, ground water monitoring, closure, post-closure, and financial assurance requirements.

4) Permits: Tribally chartered corporations or agencies, private enterprises, or any other persons are required to obtain a permit from HSWA to construct or operate a MSWLF within the exterior boundary of the Reservation or other tribal lands. Permittees shall be required to comply with this Ordinance, any regulation promulgated thereunder, all tribal environmental standards and criteria, all permit conditions established by HSWA and approved by Council, all orders issued by HSWA under authority of this Ordinance, and all applicable Federal and Tribal laws.

**Section 3.107 Indemnification.**

Any person, vendor or permittee who contracts with the Tribe to collect, transport, distribute, or dispose of solid waste shall indemnify the Tribe, or any of its members, officers, agents or employees, from any claims and liabilities of any nature whatsoever, including third party suits for personal injury, death, environmental cleanup, or property damage, which are based upon any violations of any of the provisions of the Ordinance; regulations promulgated thereunder; environmental solid waste standards; any orders or permit conditions; or are based upon the violations of any other Federal or Tribal environmental laws, and which claims or liabilities are not caused by the Tribe, or any of its members, officers, agents or employees.

CHAPTER FOUR  
ENFORCEMENT, ADMINISTRATIVE HEARINGS & JUDICIAL REVIEW

Section 4.101 Prohibited Activities:

Section 4.102 Enforcement.

Section 4.103 Judicial Review.

**Section 4.101 Prohibited Activities.**

Individuals or parties responsible for violations of the Solid Waste Ordinance shall be liable to the Hualapai Tribe for the penalties set forth below. (In extreme or aggravated cases violators may also be subject to higher and/or punitive damages, federal prosecution and expulsion from the Reservation.) A citation regarding each Ordinance violation will be issued from HSWA and delivered in person to the party committing the violation. A duplicate of the citation will be delivered to the Hualapai Tribal Court. For infractions requiring sanitary improvements of stockpiled waste, an initial written warning will be issued in person by HSWA. Two weeks will be granted for a remedy of the sanitation deficiency. An on-site assessment will be conducted by HSWA at the conclusion of the two weeks. Should the stockpiling of waste continue to cause a health hazard, a citation will be issued to the violating party and a duplicate delivered to the Tribal Court.

The list of prohibited activities and penalty amounts shall be amended by HSWA, with the approval of the Council, when necessary. Except as otherwise provided by this Ordinance, in addition to all other activities prohibited by this Ordinance, it shall be unlawful for any person or party to:

- 1) Conduct unauthorized open burning of solid waste anywhere on tribal lands, including designated solid waste collection and disposal sites - \$200.00
- 2) Burn, destroy, deface or mutilate solid waste canisters provided by the Tribe for residential or commercial usage - \$150.00
- 3) Maintain unsanitary "commercial" solid waste collection sites - \$500
- 4) Stockpile solid waste which results in health threats to community members or creates fire hazards - \$100.00
- 5) Obstruct transportation routes with solid waste - \$300.00
- 6) Damage, deface or vandalize buildings, fences, signs, vehicles and all other real properties in the Tribe's solid waste program and its designated solid waste disposal and collection sites - \$200.00 (to include the cost of repair and the cost of labor and materials).
- 7) Open dump on Reservation land or water - \$150.00

Section 4.102 Enforcement.

1) Empowerment: The BIA Police Department, the Tribal Council and HSWA are empowered to enforce this Ordinance and the regulations thereunder. Actions for violations shall be commenced in Tribal Court by citation or by summons and complaint.

2) Suit For Money Damages: Nothing in the Ordinance shall prevent the Tribe from bringing suit against any violator of the Ordinance or regulations for money damages for harm to any tribal resource caused by the violation, or for injunctive relief.

3) Civil Penalties: Any person who violates provisions of the Ordinance or regulations thereunder is subject to the imposition of civil penalties for such unlawful activities. The Program Manager of HSWA is authorized to file a citation against such person on behalf of the Tribe in the Tribal Court for civil penalties, including reasonable attorney's fees and costs. Any citation concerning violations shall be heard in Tribal Court, and the alleged violator shall be served and have an opportunity to be heard. Any person who is found by the Tribal Court to have committed the alleged violations shall be subject to a civil penalty of not less than fifty dollars (\$50.00) for each day each violation occurs, including reasonable attorney's fees and costs.

4) Criminal Penalties: Any person over whom the Tribal Court has criminal jurisdiction, and who violates any of the provisions of the Ordinance, shall, upon conviction in Tribal Court, be guilty of a criminal offense, and shall be subject to a fine of not less than fifty dollars (\$50.00) for each day each violation occurs, and in the discretion of the Tribal Court, may also be subject to imprisonment in the Tribal jail of not less than one day, nor more than ninety days, for each day each violation occurs. As an alternative sentence, any person found guilty of violating any of the provisions of the Ordinance may be placed on probation and required by the Tribal Court to provide not less than forty (40) hours but not more than two hundred (200) hours of community service assisting HSWA, or performing other kinds of community.

5) Other Remedies: In the event of criminal violations which create health hazards, BIA law enforcement officers are authorized to seize the property used in the commission of such offense of any of the provisions of the Ordinance or regulations thereunder. If such person is convicted of such offense, the seized property shall be forfeited to the Tribe. Such property shall be seized as security for the payment of any criminal penalties or damages which may be assessed or imposed, and such property is subject to forfeiture to the Tribe for payment of any criminal penalties or damages actually assessed or imposed

Any person who is not a member of the Tribe who is found by the Tribal Court to have committed any violations under this Ordinance or the regulations thereunder may be excluded from the Reservation pursuant to Article 5 section (u) of the Constitution of the Hualapai Tribe and any ordinances enacted by the Tribal Council elucidating exclusion procedures; and may have his, her or its rights to engage in commercial dealings or consensual activities on the Reservation suspended or terminated.

6) Temporary Restraining Orders and Injunctive Relief: If the Program Manager of HSWA has reason to believe that any person is in violation of any provision of this Ordinance, or that any person is creating an imminent and substantial endangerment to the public health or the environment, the Program Manager of HSWA may, on behalf of the Tribe, file an action in Tribal Court requesting a temporary restraining order, a preliminary injunction or any other relief necessary to protect the public health or the environment. No security for the issuance of any temporary restraining order or preliminary injunction shall be required.

7) Compliance, Abatement And Remedial Action Orders: Any permittee who constructs and/or operates an MSWLF on the Reservation or who collects and transports solid waste on the Reservation and who violates any of the conditions of his permit; upon order of the Program Manager of HSWA shall cease and desist from any improper action or violation, clean up any solid waste, abate any hazard, pollution, or nuisance, and otherwise comply with any directive or corrective or remedial action order issued by the Program Manager.

The Program Manager of HSWA may issue an order requiring compliance immediately or within a specified period of time. A compliance order shall state with reasonable specificity the nature of the violation, a time for compliance, if applicable, and the right to a hearing with HSWA and Tribal Council.

8) Liability Of Solid Waste Permittees For Remedial Costs: If solid waste or hazardous waste is cleaned up, the effects thereof abated, or any other necessary remedial action is taken by HSWA, the permittee who committed such violation(s) shall be liable to the Tribe for the reasonable costs actually incurred in cleaning up any solid waste or hazardous waste, abating the effects thereof, or taking other corrective or remedial action, including all damages to the natural resources of the Tribe or its members. The amount of such costs shall be recoverable by the Tribe in a civil action brought by the Program Manager of HSWA and filed in the Tribal Court.

9) Compliance Monitoring Of Commercial Entities: The Program Manager of HSWA shall have the right to obtain a court warrant in order to (1) enter and inspect any site or premises subject to any permit program, or in which any records relevant to the operation of the regulated facilities or activities are kept as required by the provisions of this Ordinance or the regulations thereunder, and (2) conduct sampling, monitoring, or testing, or review of and obtain copies of any records, to determine whether a permittee is in compliance with all Tribal solid waste requirements, including but not limited to the Ordinance. All sampling, monitoring or testing by HSWA shall incorporate chain of custody and quality assurance procedures to ensure that the results of any sampling, monitoring or testing shall be admissible as evidence in any proceeding before HSWA or Tribal Court.

10) Notice Of Hearing: A Statement of Charges shall be accompanied by a notice advising the permittee of a date for a hearing before HSWA, which shall not be earlier than ninety (90) days after personal delivery of the Statement of Charges. The permittee shall file an Answer of Defense with HSWA within thirty (30) days after service of the Statement of Charges, in which he shall admit or deny such charges. Within thirty (30) days after the case is submitted for decision after a hearing,

if necessary, HSWA shall issue its final decision. A copy of the decision shall be delivered by the Program Manager of HSWA to the permittee and to each member of the Tribal Council. Copies of the decision shall be mailed by HSWA to all other parties.

**Section 4.103 Judicial Review.**

And adverse party aggrieved by a final decision of HSWA is entitled to judicial review thereof by the Tribal Court. A petition for review shall be filed in the Tribal Court within thirty (30) days after the issuance of the final decision by HSWA. Failure to timely file a petition for review shall be deemed a waiver of the right to appeal to the Tribal Court.

The Tribal Court shall, upon the petition of an affected party, conduct a review of the record of the proceedings of HSWA but shall not take new evidence; it may modify or reverse a decision or action of HSWA only where such action or decision is contrary to the law, is not supported by the evidence, or is clearly arbitrary and capricious. HSWA, upon request of the Tribal Court, shall provide to the Tribal Court a certified copy of all documents, transcripts and all other evidence that formed the basis for any action or decision as to which an affected party seeks review. The filing of a petition for review shall not operate as a stay of HSWA final decision, but the Tribal Court has the authority to issue a stay upon such terms as it deems appropriate.