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CHAPTER ONE INTRODUCTION

I. Introductions:

An Ordinance authorizing and regulating the planning, maintenance, and operation of a comprehensive solid waste management system; the enforcement of necessary and proper regulations for the management of solid waste, the establishment of service charges for storage, collection, transportation, and disposal; and for other purposes as the Chippewa Cree Tribe deems necessary and proper.

II. Title:

Chippewa Cree Solid Waste Ordinance

III. Authority:

The Chippewa Cree Solid Waste Ordinance is enacted by the Chippewa Cree Tribal Business Committee, as the governing body of the Rocky Boy's Reservation pursuant to: Article VI – Powers of the Committee, of the Constitution and Bylaws.

A. Section 1. The Business Committee shall exercise the following powers subject to any limitations imposed by the Statutes or the constitution of the United States and subject further to all express restrictions upon such powers contained in this constitution and bylaws.

B. Article VI, Section 1 (p), of the Constitution and Bylaws of the Chippewa Cree Tribe of the Rocky Boy's Reservation which provides for the powers of the Business Committee to enact ordinances for the Tribe.

IV. Declaration of Policy:

It is hereby declared to be the purpose of this Ordinance to regulate the storage, collection, transportation, and disposal of solid waste in order to protect the public safety, health, welfare, and environment of the people of the Rocky Boy's Indian Reservation.

CHAPTER TWO DEFINITIONS

I. Definitions - For the purposes of this Ordinance, the following definitions will apply:

A. **Agricultural Waste:** means the solid waste that results from the raising and slaughtering of animals, and the processing of animal products and orchard and field crops.

B. **Approved Storage Container:** means a container that is leak proof, has a lid that is

inaccessible to flies, and is structurally compatible with the waste collection system.

- C. **Bulky Waste:** means items whose large size precludes or complicates handling by normal collection, processing, or disposal methods. Bulky waste includes, but is not limited to: carpet, logs, limbs, stumps, furniture, junk vehicles, bed frames, mattresses, wooden crates, white goods (stoves, refrigerators, dryers, etc.), wires, and demolition and construction waste (such as lumber, bricks, pavement, etc.).
- D. **Central Storage Point:** means the point at which solid waste is collected from a tribally authorized collection agency responsible for the transfer of the solid waste to an approved transfer site and/or to an approved landfill.
- E. **Collection:** means the act of removing solid waste from the central storage point at the source of generation such as from dumpsters or canisters located at household, institutional, commercial business, or special project sites.
- F. **Commercial Solid Waste:** means solid waste generated by stores, offices, and other activities that do not actually turn out a product.
- G. **Construction and Demolition Waste:** means discarded material resulting from construction or demolition of structures that is generally considered to be not water soluble and non-hazardous or inert in nature, including but not limited to steel, glass, brick, concrete, shingles, and lumber.
- H. **Council:** means the Chippewa Cree Tribe Business Committee.
- I. **Compactable Waste:** means the smaller, light, and pliable portion of solid waste generated through normal household, commercial, and institutional activities. Compactable waste includes, but is not limited to: containers (metal, glass, plastic, paper, etc.), textiles, food parcels, floor sweeping, and yard trimmings.
- J. **Dead Animal:** means animals that have died from any cause except those slaughtered for human consumption.
- K. **Director:** means the individual responsible for enforcement and oversight of this ordinance.
- L. **Disposal:** means the orderly process of discarding useless or unwanted materials.
- M. **Generation:** means the act or process of producing solid waste.
- N. **Hazardous Waste:** means any waste material that poses a threat to human health or environment. Typical hazardous wastes are toxic, corrosive, ignitable, explosive, or chemically reactive, the disposal and handling of which is regulated by federal law.

- O. Household Solid Waste:** means all solid waste that normally originates in a residential environment.
- P. Industrial Solid Waste:** means solid waste that results from industrial processing and manufacturing.
- Q. Institutional Solid Waste:** means solid waste originating from educational, health care, and government activities.
- R. Non-Residential Solid Waste:** means solid waste from agriculture, commercial, industrial, recreational, or institutional activities, or from a building or group of buildings.
- S. Open Burning:** means the combustion of solid waste without control of combustion air to maintain adequate temperature for efficient combustion, containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion and control of the emission of the combustion products.
- T. Open Dump:** means a site used for the disposal of solid waste that is not a state or tribally permitted solid waste disposal facility.
- U. Person:** means any individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust estate, or any legal representative, agent or assignee.
- V. Pollution:** means the condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired.
- W. Recovered Resources:** means materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reclaimed or recycled for the same or other purposes.
- X. Reservation:** means the Rocky Boy's Indian Reservation, Montana.
- Y. RCRA:** means the federal Resource Conservation and Recovery Act of 1976 as amended.
- Z. Rubble:** means inert construction debris (soil, dirt, rock, stone, etc.).
- AA. Sanitary Landfill:** means a site where solid waste is disposed of using sanitary landfill techniques as permitted by the Tribe or State.
- BB. Sanitary Landfilling:** means a method of disposing solid waste on land in a manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest volume practicable, and covering it with soil in accordance with 40 CFR Parts

257 or 258.

- CC. Scavenging:** means the uncontrolled removal of materials at any point in the solid waste management system.
- DD. Solid Waste:** means any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).
- EE. Solid Waste Management:** means the purposeful and systematic control of the generation, storage, collection, transport and disposal of solid waste.
- FF. Storage:** means the interim containment of solid waste in an approved manner after generation and prior to ultimate disposal.
- GG. Transport:** means the movement of solid waste subsequent to collection.
- HH. User Fee:** means the fee collected for the development, operation, and management of a solid waste management system.

CHAPTER THREE ADMINISTRATIVE COUNCIL

I. Administrative Council:

The Council shall be responsible for the administration and management of this Ordinance and compliance with the rules and regulations authorized in Chapter 1 G.

II. Powers and Duties of the Administrative Council:

The Council has the full power and authority to carry out and administer the provisions of this Ordinance. The Council shall have jurisdiction and authority over all persons and property, tribal, institutional and private necessary to lawfully enforce the provisions of this Ordinance.

III. Promulgate Rules and Regulations:

Pursuant to the purposes of the Ordinance, the Council shall promulgate such rules and regulations as are necessary and feasible for the protection of the environment through the implementation and operation of a solid waste management system of the Rocky Boy's Indian Reservation. The rules and regulations shall be part of the Ordinance and shall have the full

force of the effect of the law.

IV. Delegation of Authority:

The Council shall delegate administrative and enforcement authority to carry out of the provisions of this Ordinance the Director.

V. Enforcement Agency:

The Director shall be responsible for the enforcement of this Ordinance, and any rules and regulations authorized in Chapter 1 G.

**CHAPTER FOUR
GENERAL PROVISIONS**

I. General Provisions:

- A. The Director shall plan for and regulate the storage, collection, transportation, and disposal of solid waste in order to protect the public health, safety, and welfare and to enhance and protect the environment of the residents within the external boundaries of the Reservation that meets or exceeds RCRA criteria.
- B. Upon recommendation of the Director, the Council may amend or repeal any provisions of the rules or regulations promulgated pursuant to this Ordinance.
- C. The Director is authorized to approve or disapprove the development and or operation of any solid waste storage, collection, transportation, and disposal system and/or site.
- D. Rocky Boy Utilities shall maintain a solid waste management system through tribal ownership, contract services, or approved operation or any combination of these methods that is self-supporting through the collection of user fees.
- E. Rocky Boy Utilities shall determine the number and type of solid waste storage, collection, transportation, and disposal systems and sites within the exterior boundaries of the Reservation.
- F. To ensure efficient and thorough management of solid waste, Rocky Boy Utilities shall designate services areas that may encompass all or part of the Rocky boy's Reservation. Each service area shall be provided with storage and collection facilities for compactible waste and for the disposal of bulky waste.
- G. Consistent with other provisions of this Ordinance, Rocky Boy Utilities may enter into intergovernmental agreements to provide for the efficient, thorough, and economical management of solid waste on the Rocky Boy's Reservation.

- H. Rocky Boy Utilities is authorized to establish and shall collect reasonable user fees from all person within the exterior boundaries of the Rocky Boy's Indian Reservation.
- II. Approval for the Management of Solid Waste Facilities and Services:**

- A. Following the enactment of this Ordinance, it shall be unlawful for any person to own, operate, or use a facility for solid waste collection (including both compactible and bulky waste), transport, or disposal, without approval of the Director.
- B. The Director shall approve an application for the ownership, operation, or use of any facility for solid waste collection, transport, or disposal after the application has been reviewed by the Council or designated authority and undergone a 10 day public comment period.
- C. Approval from the Director is required for:
1. The operation of any and all solid waste, storage, collection, and transportation systems and services.
 2. The operation of public sanitary landfills and bulky waste facilities.

CHAPTER FIVE REQUIREMENTS FOR OPERATION

I. Requirements for Operation:

- A. Operation and storage, collection, and transportation service must:
1. Provide approved storage containers sufficient to store for one week the residential compactable solid waste, generated by the population of the service area.
 2. Provide approved storage containers and timely collection of all compactable non-residential solid waste generated in the service area.
 3. Provide enclosed, sealed compacting vehicles, sufficient to maintain the collection schedule specified in the application.
 4. Operate collection services as described in the application provided for Department approval.
 5. Clean-up any spillage and maintain the area around storage containers in a condition free of refuse.

6. Maintain collection and transportation vehicles in a condition that prevents waste from escaping from the vehicle during transportation.

7. Maintain insurance.

II. Operation of public sanitary landfills and bulky waste facilities must:

A. Meet, at minimum, the criteria in 40CFR Parts 257 and 258.

B. Tribal criteria, if or when, it is established.

**CHAPTER SIX
PROHIBITED ACTIVITIES/PENALTIES**

I. Prohibited Activities:

The following activities in the handling and disposal of solid wastes, whether compactable or bulky, shall be illegal and subject to the penalties prescribed in Chapter 2 E.

A. Any landfill or site where solid waste may have previously been disposed at anywhere within the exterior boundaries of the reservation is deemed to be permanently closed, unless before then:

1. Such site is specifically determined by the Director to be in compliance with 40 CFR Part 258; and

2. Such site is specifically determined by the Director to be a Municipal Solid Waste Landfill ("MSWLF") where solid waste may be disposed of under 40 CFR Part 258; or

3. Such site is specifically determined by the Director to be a landfill where solid waste may be disposed of under 40 CFR Part 257.

B. Any landfill site on the reservation which has not been determined by the Director to be a MSWLF, or a landfill authorized to accept waste under 40 CFR Part 257, is considered to be an open dump site.

C. It is expressly prohibited and shall be unlawful, for any person to dispose of, or dump, scatter, or place, or cause to be dumped, scattered or placed, any solid waste as defined under this Ordinance, at or near an open dump site within the exterior boundaries of the reservation or on any other land with the exterior boundaries of the reservation, except as disposal may be permitted under the code at a duly authorized and designated MSWLF or Part 257 landfill.

- D. Dead Animals:** It shall be unlawful to place any dead animals, or parts of thereof, in a storage container, bulky waste disposal facility, stream, lake or on any roadway within the Rocky Boy's Indian Reservation.
- E. Flammable Liquids:** It shall be unlawful to place flammable liquids upon the roads, streets, in the waterways, or on public or private property, in storage containers, bulky waste facilities, or sanitary landfills within the Rocky Boy's Indian Reservation.
- F. Hot Ashes:** It shall be unlawful to place hot ashes in any storage container, bulky waste disposal facility, or sanitary landfill.
- G. Used Oil:** It shall be unlawful to place used oil liquids upon the roads, streets, in the waterways, or on public or private property, in storage containers, bulky waste facilities, or sanitary landfills within the Rocky Boy's Indian Reservation.
- H. Littering:** It shall be unlawful to place, or allow to be placed, any solid waste upon the roads, streets, highways, and public or private properties within the Rocky Boy's Indian Reservation other than at Tribally-approved solid waste facilities.
- I. Burning Materials:** It shall be unlawful for any person to burn solid waste in any manner (including but not limited to grass clippings, leaves, tree limbs, etc.). This prohibition shall not apply to farm waste created in the course of farm production. It shall likewise be unlawful to place burning material in any storage container, bulky waste disposal facility, or sanitary landfill.
- J. Open Dump:** It shall be unlawful for any person to use or operate an open dump within the Rocky Boy's Indian Reservation.
- K. Oversized Material:** It shall be unlawful to place oversized material such as appliances, large tree limbs, construction/demolition waste, etc., in any storage container, bulky waste disposal facility or sanitary landfill.
- L. Compactible Waste:** It shall be unlawful for any person to dispose of any compactible waste in a bulky waste facility.
- M. Hazardous Waste:** It shall be unlawful for any person to store, transport, or dispose of hazardous waste upon the roads, streets, in the waterways, or on public or private property, in storage containers, bulky waste facilities, or sanitary landfills within the Rocky Boy's Indian Reservation unless it is done in accordance with federal law and regulation. This does not include the small quantities of household hazardous waste disposed of in residential solid waste.

N. **User Fee:** It shall be unlawful for any person not to pay fees established by the Director.

II. Penalties:

A. Any person who violates or fails to comply with any provision of this Ordinance, or any amendments duly approved to this Ordinance, shall be liable for a misdemeanor penalty, and in the case of approved activities, disapproval, revocation or suspension.

1. Any person violating any provision of Chapter 2 D of this Ordinance shall be subject to a penalty not to exceed fifty (50) dollars or 30 days in jail.

2. The Judge may, at his/her discretion, permit those charged with violations under Chapter 2 D, to take remedial action or to correct the non-compliance within five (5) working days in lieu of assessing penalties, provided that the person charged with the violation or the non-compliance provides proof that remedial action has been taken and that no damage has resulted from this violation.

3. All fines must be paid within 10 days of the time of assessment.

B. Any person or entity that violates any of the provisions of this Ordinance, is subject to the imposition of civil penalties for such unlawful activities. The Director, through the Tribal Prosecutor, is authorized to file a civil action against such person on behalf of the Tribe in the Tribal Court for civil penalties, including reasonable attorney fees and cost of litigation. Any civil action concerning such violation(s) shall be heard in the Tribal Court, and the alleged violator shall be served and have an opportunity to be heard. Any person who is subject to a monetary civil penalty to assessed on a daily basis and as recommended by the prosecutor or as set the court.

C. The Director is authorized to initiate a civil action on behalf of the Tribe or its members, in the Tribal Court, or any other court of law, against any person who has committed any violation under this Ordinance. This includes any and all civil damages caused, including damages to the land or natural resources of the Tribe or its members. The damages shall include all reasonable costs actually incurred or to be incurred by the Tribe for cleaning up any solid or hazardous waste, or abating the effects thereof, together with the costs of litigation, including reasonable attorney fees. The Tribal Business Committee must approve of the filing of any civil action for damages before such action is filed.

D. **Payment of Penalties and Damages;**

1. All penalties assessed by the Tribal Court shall be paid to the Tribe and shall be retained in a trust fund designated for paying costs or remedial responses to environmental emergencies occurring on the reservation, and shall only be expended for such purposes. This includes any property which forfeited to the

Tribe for payment of civil penalties.

2. All damages shall be paid to the Tribe. This includes any property which is forfeited to the Tribe for payment of civil damages. Reasonable attorney fees awarded in any civil action shall be paid to the Tribe. All costs of suit awarded in any civil action shall be paid to the Tribe.

E. Appeals;

The parties must comply with the appellate procedures and requirements set forth in the Tribal Law and Order Code.

F. Inspections;

1. The Director may enter upon any approved facility at reasonable times for the purpose of inspection to determine compliance with all applicable requirements of this Ordinance and approvals issued pursuant to it. Inspection officers need not provide advance notice of inspections.
2. Inspections may also be conducted, without notice, to determine compliance with enforcement orders, or the completion of remedial work required under enforcement procedures and compliance with notices of approval revocation or suspension.
3. Inspections may also be conducted, without notice, of any open dumps that have not yet been subject to enforcement.
4. The Director may also require the presentation at reasonable times, but without notice, of any records required under the terms of approval.
5. The Director may require, pursuant to approval issues, the period inspection of compacting vehicles involved in the collection and transportation of solid waste.

G. Savings Clause;

Nothing in this Ordinance shall be deemed to effect, modify, amend, or repeal any existing provisions of a code administered by the Council or the Director or any other department, board, commission, or agency of this locality.

H. Severability:

The provisions of this Ordinance are severable, and if any provision or part thereof shall be

held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality, or inapplicability shall not affect or impair the remaining provisions of this Ordinance.

