



SOLID WASTE ORDINANCE

To protect the lands and people of the Iipay Nation of Santa Ysabel by establishing minimum standards for the storage and disposal of solid waste within Tribal Lands.

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Section 1. Jurisdiction and Construction

1 - Purposes

The purposes of this Ordinance are to protect the health and safety and promote the welfare of the people of the Iipay Nation of Santa Ysabel and surrounding communities and to protect the environment by establishing minimum standards for the storage and disposal of solid waste. Prevent the deterioration of the environment, standard of living, quality of life, health, safety and welfare of all persons within the territory of the Nation.

2 - Jurisdiction

The Iipay Nation of Santa Ysabel Tribal Court ("Tribal Court") shall have jurisdiction over all cases arising under this ordinance. The jurisdiction of the Tribal Court shall extend to all persons and lands within the exterior boundaries of the Santa Ysabel Reservation including Tract one, Tract two, Tract three, and all lands held in trust by the United States for the benefit of the Nation or the people and any additional lands acquired by the Nation. The jurisdiction of the Tribal Court is limited only by the Nation's Constitution, and applicable federal law.

3 - Scope

This Ordinance shall apply to all individuals whether members or non-members of the Iipay Nation of Santa Ysabel, clubs, associations, businesses, and organizations entering, residing within or otherwise situated within the exterior boundaries of the Iipay Nation of Santa Ysabel. Any person who is not a member of the Tribe who uses Tribal lands, anywhere within the exterior boundaries of the tribe's Territory, 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 or hazardous waste on or near Tribal lands 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.

The provisions of this Ordinance shall apply to all existing and proposed solid waste disposal activities and to all activities which have the potential to affect cultural, ceremonial, religious, seasonal residential, public health, safety, welfare, land, air or water quality and other fundamental interests of the Tribe, including such activities conducted by non-members of the Tribe. Activities to be regulated hereunder include but are not limited to:

- 1) Landfills and open dumps;
- 2) Storage of animal waste;
- 3) Automobile graveyards and junkyards;
- 4) Storage or collecting of used tires;
- 5) Disposal of any waste into streambeds or waterways;

- 6) All other activities that involve the storage, collection, transportation or disposal of solid and/or hazardous waste within the exterior boundaries of the Tribe.

It is not the intent of this Ordinance to impose unnecessary restrictions on the Traditional and cultural practices of the people of the Iipay Nation of Santa Ysabel. Members of the Iipay Nation have always retained certain sacred tribal customs and traditional beliefs which are recognized by this Council and with all due respect hold the same exempt from this ordinance.

4 - Construction

This Ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted. Furthermore, the Ordinance shall be interpreted and construed to:

- 4.1 Preserve the peace, harmony, safety, health, and general welfare of the people of the Nation and those permitted to enter or reside on the Reservation.
- 4.2 Promote the welfare of the Nation, its members, and the natural environment.
- 4.3 Safeguard individual rights and community waste standards.
- 4.4 Secure rights and powers, which are inherent in the Nations sovereign status.
- 4.5 Exert jurisdiction over all solid waste matters.
- 4.6 Resolve disputes fairly and efficiently.

5 - Definitions

For the purposes of this Ordinance, the following words and phrases shall have the following meanings:

"Approved Site" means a site permitted and approved by the Iipay Nation of Santa Ysabel Tribal Council following all applicable land request laws.

"Bulky waste" means large items of solid waste, including but not limited to appliances, furniture, large auto parts, trees, branches, stumps and oversized solid waste, the size of which precludes or complicates their handling by normal collection, processing, or disposal methods.

"Civil Infraction" means a violation of Tribal law as set forth in this ordinance.

"Collection" means the act of collecting solid waste or hazardous waste at the place of generation by an approved collection agent for transporting and does not mean removal.

"Contaminate" means to introduce a substance into water, by direct or indirect means, that would cause:

- i. The concentration of that substance to exceed the maximum concentration or contaminant levels established pursuant to federal law and regulations; or
- ii. An increase in the concentration of such substance where the concentration in the ground water already exceeds the levels established by federal law and regulations.

"Council or Tribal Council" means the duly elected governing body of the Iipay Nation of Santa Ysabel empowered to adopt policies and enact laws governing the Iipay Nation and its territory.

"Degradable" means capable of decomposing by biodegradation, photodegradation or chemical process into harmless component parts after exposure to natural elements for not more than 365 days.

"Disposal" means the discharge, abandonment, deposit, injection, dumping, spraying, spilling, leaking, or placing of any solid waste or hazardous waste into or on any air, land, or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

"Disposal facility" means a facility permitted to receive and dispose of solid waste and includes all contiguous land and structures, other appurtenances and improvements on the land. It does not include a facility the principal function of which is handling, treatment or composting of manure or other solid waste not intended for disposal. Disposal facility is used interchangeably with "Municipal Solid Waste Landfill Unit."

"Disposal Site" means the location for disposing of solid waste in an approved manner, such as a sanitary landfill.

"Enforcement Agency" means the Tribal Environmental Department or other agency designated by the Tribal Council to enforce the provisions of this Ordinance.

"Exterior boundaries of the Iipay Nation" means the boundary lines of the Iipay Nation of Santa Ysabel tribe's territory as established and geographically defined under the laws of the United States, which encompasses all territory now or hereafter prescribed and ascertained, including fee patented and allotted lands used or claimed by any person, without regard to such person's membership in the Iipay Nation.

"Federal regulations" means regulations adopted by an agency of the United States government and published as a part of the Code of the Federal Regulations;

"Garbage" means all kitchen and table food waste and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food-stuffs.

"Handling" means collection, transportation, storage, transfer or processing of solid waste or hazardous waste.

"Hazardous waste" means:

- i) Solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- ii) Waste that poses a substantial present or potential threat to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed; or
- iii) Any substance that is hazardous, explosive, toxic, ignitable, reactive or corrosive and that is defined and regulated as such by the Lipay Nation of Santa Ysabel's environmental department, the State of California or the United States of America; or
- iv) Any substance that is defined to be hazardous or toxic by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or the Resource Conservation and Recovery Act of 1976 (RCRA) as either act may be amended from time to time, and by any regulations promulgated thereunder, including but not limited to any substance, material, smoke, gas, particulate matter or combination thereof contain asbestos, petroleum or its byproducts or polychlorobiphenyls ("PCBS"); or
- v) Solid waste that is flammable, corrosive, radioactive, toxic or reactive or that otherwise meets the criteria established for hazardous waste in federal law.

"Health" means the state of well being, freedom from sickness.

"Medical wastes" includes laboratory or surgical wastes, such as tissues, specimens of blood elements, excreta, and secretions obtained from patients or laboratory animals, or clothing, rags, or paper goods contaminated with such waste.

"Motor Vehicle" or "Vehicle" shall include cars, any motorcycle, All Terrain Vehicle, trucks, pocket bike, motorized skateboard, golf cart, quad/trike, self-propelled wheelchair, electronic personal assistive mobility device, and all other forms of motorized transportation.

"Landfill" means a disposal facility or part of a facility at which solid waste is permanently placed in or on the land.

"Litter" means any discarded, used or unconsumed substance or waste, including but not limited to any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned motor vehicle, motor vehicle parts, tires, furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure a person or create a traffic hazard, or anything else of an unsightly or unsanitary nature that has been discarded, abandoned or otherwise improperly disposed of.

"Mitigation" means a measure taken to reduce adverse impacts on the environment.

"Non-compliance" means any neglect, failure or refusal to do or perform an act set forth in this Ordinance.

"Nuisance" means:

- i) A condition that occurs as a result of handling, treatment, composting, or disposal of solid waste;
- ii) Which condition is injurious to human health or is indecent or offensive to the sense and interferes with the comfortable enjoyment of life or property; and
- iii) Affects an entire band, community or neighborhood or any considerable number of persons.

"Open burning" means the combustion of solid waste without (1) control of combustion air to maintain adequate temperature for efficient combustion; (2) containment of the combustion reaction in an enclosed device to provide sufficient resident time and mixing for complete combustion; and (3) control of the emission of the combustion products.

"Open dump" means any facility or site at which solid waste or hazardous waste is disposed of in a manner that does not protect the environment, is susceptible to open burning or is exposed to the elements, vectors and scavengers, and includes any facility that fails to satisfy standards found in Tribal regulations and/or 40 CFR Part 258.

"Other Wastes" The generation, collection, transportation, storage and disposal of wastes not defined as solid waste herein shall be governed by all applicable regulations and appropriate guidelines until such time as relevant Tribal codes are-enacted.

"Owner/operator" means the responsible party collecting, storing, transporting and/or disposing of solid waste.

"Person" means an individual, public or private corporation, company, partnership, firm, association or society of persons, trust, estate, co-partnership, political subdivision, government agency, municipality, commission or department, or any other legal entity or its legal representatives, agents, or assigns whatsoever.

"Pollutant" means any substance or energy entering the environment as a direct or indirect result of human activity which alters or has the potential to alter the physical, chemical, biological, cultural or aesthetic properties of the environment.

"Pollution" means the condition caused by the presence in or on soil, air or water of any solid waste, hazardous waste or substance derived therefrom in such quantity, of such nature and duration or under such condition that the quality, appearance or usefulness of the soil, air or water is significantly degraded or adversely altered.

"Solid waste" means any nonrecyclable solid, semi-solid and liquid wastes including, but not limited to garbage, trash, rubbish, sludge, refuse, ashes, dead animals, abandoned vehicles or parts thereof, infectious wastes, hazardous wastes, manure, street and parking lot cleaning residues, industrial wastes, construction and demolition waste, discarded home and industrial appliances, vegetable or animal solid and semisolid waste, other discarded solid, liquid and

semisolid waste from a wastewater treatment plant, water supply treatment plant or air pollution control facility or other discarded containerized gaseous material resulting from industrial, commercial, mining or agricultural operations, or community activities and other waste material, but not including solid or dissolved materials in domestic sewage or solid or dissolved materials in irrigation return flows or dissolved material in irrigation return flows; industrial discharges that are point sources subject to permits under 33 U.S.C. section 1342; or a source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. sections 2011, et. seq.

"Solid waste disposal site" means the location where any final treatment, utilization processing or deposition of solid waste occurs.

"Storage" means the process of storing solid waste after generation prior to collection, transportation and/or disposal.

"Toxic materials" means any chemical or mixture that presents an unreasonable risk or injury to human health or the environment.

"Transfer/processing station" means a facility used to receive, temporarily store, process or transfer solid waste directly from smaller to larger vehicles for transport.

"Transportation" means the process of transporting solid waste to and from a collection point to a disposal facility.

"Treatment" means any method, technique or process designed or intended to change the physical, chemical or biological characteristics of solid waste or hazardous waste to render it less harmful to the quality of the soil, air and water; safer to handle; or easier to contain, manage or use as fuel, nutrient, soil amendment or other additive.

"Tribal Court" means the Intertribal Court of Southern California or other such court as may be designated by the Laws of the Nation.

"Tribal environment" means the functioning system composed of all living and non-living entities and objects within the boundaries of the Tribe together with their interactions and the inputs to and outputs of that system.

"Tribal Resources" means the physical and biological resources of the Tribe within the boundaries of the Tribe, including but not limited to land, water, air, minerals, cultural or historical sites and objects, animal and plant life, and aesthetic values.

"Tribal Lands" means all lands within the exterior boundaries of the Iipay Nation of Santa Ysabel Tribal Territory, which the Tribe owns in fee or trust status as now or hereafter prescribed and ascertained.

"Tribe" means the federally recognized Iipay Nation of Santa Ysabel.

"tribe's Solid Waste Disposal Program" means all the authorities, activities, and procedures under this Ordinance or 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 40 CFR Part 258.

"tribe's territory or tribe's Reservation" means the Iipay Nation of Santa Ysabel's tribal territory as established and geographically defined under the laws of the United States, encompassing all territory within its exterior boundaries as now or hereafter prescribed and ascertained, including fee patented and allotted lands used or claimed by any person, without regard to such person's membership in the Iipay Nation of Santa Ysabel.

"Variance" means an authorized written permission for a delay or exception in the application of a given law, ordinance or regulation.

"Vector" means a living animal, insect, or other anthropoid which transmits or can transmit an infectious disease from an organism or another.

"Violation" means a breach of any right, duty, requirement or provision of this Ordinance.

"Waste" includes waste water and any and all other substances, liquid, solid, gaseous, radioactive, heat laden, associated with human habitation, or of human or animal origin, or from any of man's activities including producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

"Waters within the Tribes exterior boundaries or Tribal waters" means any water, surface or underground, contained within, flowing through or bordering upon the Tribes territory or any portion thereof.

"Yard waste" means any leaves, grass clippings, garden debris and smaller chip branches.

Section 2: Violations

1 – General Penalty Provisions

- 1.1. A person committing a violation under this ordinance will be subject to a civil fine as set forth in this section.
- 1.2. In addition to, or in lieu of the civil fine, the Tribal Court may grant such other relief as is necessary and proper, including, but not limited to community service and traditional sanctions.
- 1.3. The Tribal Court has the authority to forfeit property, revenue sharing payments, suspend or cancel a license or permit, or cite for contempt.

2 – Classification of Civil Infractions

- 2.1. Class A Civil Infraction: Punishable by civil fine not to exceed \$10,000
- 2.2. Class B Civil Infraction: Punishable by civil fine not to exceed \$5,000
- 2.3. Class A Civil Infraction: Punishable by civil fine not to exceed \$1,000

3 – Penalties for Repeated Civil Infractions

Any Person who repeatedly commits a civil infraction will be subject to the following penalties:

- 3.1. A person violating a Class A civil infraction three or more times may be subject to banishment.
- 3.2. Any person violating a Class B civil infraction three or more times may be subject to a Class A Civil Fine.
- 3.3. Any person violating a Class C civil infraction three or more times may be subject to a Class B Civil Fine.
- 3.4. Any person violating a Class C civil infraction three or more times may be subject to a Class A Civil Fine.

4 – Civil Penalties Deferred

The Tribal Court may choose not to impose civil penalties for a period not to exceed one year if justice so requires and/or the following criteria is met:

- 4.1. The person has not committed any previous violations of this ordinance.
- 4.2. The person does not commit any other violations of this ordinance during the time the civil penalty is deferred or suspended.
- 4.3. The person complies with all Tribal Court Orders concerning the civil infraction to the best of their ability.

5 – Community Service

The Tribal Court recognizes that a person who violates this code may be unable to pay their fine as imposed by the Tribal Court. For this reason, the Tribal Court at its discretion, may order community service in addition to or in place of a civil fine. The Tribal Court will determine if a person is a suitable candidate for community service and will carry out the service.

5.1. Community service is limited to:

5.1.1. Tribal property or Tribal agencies

5.1.2. The primary residence of a Tribal Elder

5.2. Tribal agencies or elders requiring services must submit a written request to the Tribal Court Administrator

5.3. Assistance will be distributed on the order that requests are received.

5.4. The Tribal Court will keep a log of both services requested and performed.

5.5. The Tribal Court will provide a form for verification of community service to the service worker.

5.6. The member will be responsible for:

5.6.1. Obtaining written verification from the monitoring supervisor on the provided form

5.6.2. Submitting the form to the Tribal Court

6 – Seizure and Forfeiture of Property

A Tribal Law Enforcement Officer may, upon reasonable cause when issuing a citation for a civil infraction, seize any property used in the violation of this ordinance. All property utilized in violation of this ordinance is also subject to seizure and forfeiture by order of the Tribal Court. The Nation must return any property confiscated to its rightful owner if civil fines are paid in accordance with this ordinance or the Tribal Court determines that the confiscation of the property is unlawful. If the Tribal Court finds the confiscation to be lawful and or the property is deemed to be a risk to facilitate further violations of this ordinance, it will become property of the Nation.

7 – Payment of Fines

7.1. In any case where a person has been found to have committed a civil infraction and a civil penalty has been assessed, the person has thirty days to pay the civil fine. For good cause shown, the Tribal Court may extend the time for payment or approve an installment plan.

- 7.2. If the person has not paid the civil fine within the time allotted by the Tribal Court, the Court may take any and all actions necessary to collect the civil fine, including but not limited to the following:
 - 7.2.1. Refer the civil fine to a collection agency or other collection institution.
 - 7.2.2. Order on reservation employer to garnish up to 25% of the violator's wages.
 - 7.2.3. Order the Tribal Administrator, or other appropriate Tribal Official, to garnish up to 100% of the violator's revenue sharing trust fund distribution.
 - 7.2.4. Sell any property confiscated under this ordinance, up to the amount of the civil fine.
 - 7.2.5. Upon the written request from the Nation, issue a garnishment order against an off- reservation employer or any other entity that issues the violator wages or compensation.
 - 7.2.6. Late or missed payment shall accrue a \$35 late fee the day immediately following the missed scheduled payment date as set forth by the Tribal Court Judge in their decision or thirty days after the issuance of an uncontested civil infraction. An additional \$35 late fee may be accrued every 15 calendar days thereafter until the payment plan is brought current or the fine is paid in full.

8 - Hearing Procedure

- 8.1. Response Options – A person shall respond to the civil infraction in the following ways:
 - 8.1.1. Pay the fine by submitting cash, cashier check or money order in the amount of the civil fine to the nation within thirty days from the date the citation was served
 - 8.1.2. Request a hearing by completing the portion of the civil citation form and submitting the request to the tribal court, per instruction on the civil citation within thirty days from the issuance of the citation.
- 8.2. Failure to Respond – if a person who is served a civil citation fails to pay the fine amount, fails to request a hearing, or fails to appear at a hearing that they have requested, the Tribal Court shall enter a default judgment against the person and impose additional sections for failing to respond.
- 8.3. Hearing
 - 8.3.1. A hearing shall be scheduled within thirty days from the Tribal Court's receipt of a request for hearing. The Tribal Court shall provide a written notice of hearing to the person requesting the hearing (Petitioner) and the Santa Ysabel Law Enforcement Department. The notice of hearing shall state the date, time, and location of the hearing and shall be served at least fifteen days prior to the date of the hearing. The notice of hearing to the Law Enforcement Department shall include a copy of the petitioners completed request for hearing form.

- 8.3.2. If the enforcement office submits an additional written report concerning the civil citation to the Tribal Court for the consideration at the hearing, then a copy of this report shall also be provided to the Petitioner at least five days prior to the hearing.
- 8.3.3. The petitioner or the enforcement officer may request one continuance for any reason, provided that Tribal Court is given the request for a continuance at least forty-eight hours in advance of the scheduled hearing and that the deferred hearing shall not be deferred more than forty-five days after the hearing request was filed. A request for continuance made less than forty-eight hours before the scheduled hearing may be granted by the Tribal Court Judge based upon a showing of good cause.
- 8.3.4. All hearing shall be closed to the public unless the enforcement officer and or the Tribal representative agree that the hearing will be open. At the hearing, the petitioner shall be given the opportunity to testify and to present evidence and cross examine witnesses concerning the civil citation. The petitioner may appear personally or through an attorney. Prehearing discovery is not authorized but subpoenaing of witnesses and documents shall be permitted as authorized by tribal law or the Tribal courts rule of court. The Tribal Court Judge is authorized to conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which will provide a fair hearing.
- 8.3.5. The civil citation and any additional reports submitted by the enforcement officer shall constitute presumptive evidence of the respective facts contained in those documents.
- 8.3.6. The Tribal Court may continue the hearing and request additional information from the enforcement officer or the petitioner of the civil citation prior to issuing a written decision.

8.4. Tribal Court Decision

- 8.4.1. After considering all the testimony and evidence submitted at the hearing, the Tribal Court Judge shall issue a written decision to uphold or dismiss the civil citation and the reasons for that decision, including written findings on each violation. The decision of the Tribal Court Judge shall be issued within ten calendar days following the completion of the hearing
- 8.4.2. If the Tribal Court Judge determines the civil citation should be upheld, the Judge may apply any of the following remedies
 - 8.4.2.1. Issue an injunction, by ordering the petitioner to temporarily or permanently refrain from conducting the acts or actions that gave rise to the civil citation.

- 8.4.2.2. Impose civil penalties in an amount not to exceed the maximum provided in the schedule of civil penalties adopted in this ordinance. In determining the amount of the civil penalty, the judge may take into account any or all of the following factors:
 - 8.4.2.2.1. Duration of the violation
 - 8.4.2.2.2. The frequency, recurrence, and number of violations, related or unrelated, by the same violator.
 - 8.4.2.2.3. The seriousness of the violation
 - 8.4.2.2.4. The economic impact of the violation on the community
 - 8.4.2.2.5. Such other factors as justice may require
- 8.4.2.3. Suspend the civil penalty on the condition the petitioner does not commit any other violations of this ordinance and complies with all Tribal Court orders relating to the violation during a specified period not to exceed one year.
- 8.4.2.4. Issue such other orders as may be deemed fair and just by the Tribal Court.
- 8.4.3. If the Tribal Court Judge finds that a request for hearing is completely without merit, the Judge may hold the petitioner liable for and order the petitioner to pay, the Tribes reasonable fees and costs including attorney's fees.
- 8.4.4. If the Tribal Court Judge determines the civil infraction citation should be upheld, the Judge shall set forth in the decision the payment schedule for the civil penalty as well as for payment of any administrative costs assessed under section 8.4.3 above. Late payment charges shall accrue and be payable in the amount and by the terms specified in the schedule of civil penalties.
- 8.4.5. If the Tribal Court Judge determines the civil citation should be dismissed, they shall issue a decision dismissing the civil citation.
- 8.4.6. The petitioner and the enforcement officer shall be served with a copy of the decision within seven calendar days of its issuance.
- 8.4.7. The decision of the Tribal Court Judge shall be final upon service on the petitioner and not subject to further review.

9 – Enforcement

It shall be the duty of the Officers of Santa Ysabel Tribal Law Enforcement department (“Enforcement Officers”) to ensure this Ordinance and implementing all rules and regulations

- 9.1. A person who is reasonably suspected of committing a civil infraction and is stopped by an enforcement officer is required to identify themselves by providing the enforcement officer their name, address, and date of birth. If requested by the enforcement officer, the

person shall also produce a picture identification card, such as a driver's license, military ID, or tribal enrollment card. The enforcement officer may detain the person for a reasonable period of time in order to identify the person and issue a civil infraction.

9.2. Civil infraction

9.2.1. An enforcement officer has the authority to issue a civil citation if:

9.2.1.1. The infraction occurs in the presence of the enforcement officer

9.2.1.2. When the enforcement officer has reasonable cause to believe a civil infraction has been committed

9.2.2. The enforcement officer shall issue all civil infractions no later than thirty days from when the violation occurred.

9.3. Service of the Citation

9.3.1. The citation may be served on the person in the following manner

9.3.1.1. Personal service

9.3.1.2. Mailing the Civil citation by certified or registered mail, return receipt requested, addressed to the person at their mailing address if known, or such other place which is believed to give the violator actual notice of the civil citation by the enforcement officer.

9.3.2. Service is deemed effective on the date of the personal service or when the certified mail is either delivered or delivery is attempted. If the certified mail receipt is returned unsigned, then service shall be deemed effective on the date three days following deposit of the mail.

9.3.3. Where service of any notice required under this code is affected in compliance with this section and with due process, the asserted failure of any person to receive this notice shall not affect the validity of any proceedings taken under this ordinance.

9.3.4. A copy of the civil citation and, if applicable, the proof of service shall be filed with the Tribal Court within seventy-two hours of issuance, excluding weekends and holidays. If the Tribal Court within this timeframe does not receive the citation, the Tribal Court may dismiss the citation without prejudice.

9.4. Notice Requirement

The civil citation shall include

9.4.1. A statement that the civil infraction is a non-criminal offense for which imprisonment is not an available sanction.

9.4.2. A statement listing the subsection of this ordinance that was violated along with a statement briefly describing the conduct of the person which led to the violation.

- 9.4.3. A statement listing the monetary penalty imposed for each civil infraction and that the person may be noticed by separate letter that the penalty amounts have increased after the determination that the person has previous violations.
- 9.4.4. A statement on how the person may contest the infraction.
- 9.4.5. A statement that the person must respond to the citation within thirty days from the date of service of the citation.
- 9.4.6. A statement that failure to respond to the citation or failure to appear in at a requested hearing will result in a default judgement against the person in the amount of the citation plus a sanction by the court for a person's failure to appear.

9.5. Second Notice

A second notice may be served on a person who has been served a civil citation informing them that the amount of the penalty reflected on the civil citation has been increased due to the fact that the person has been cited for this citation one or more times in the past 12 months, thereby enhancing the penalty for the recent infraction. This second notice shall inform the person of the revised penalty amount and again inform the person where they may pay the fine and the process for contesting the citation.

9.6. Final Determination Unless Contested

A civil citation represents an official determination that civil infraction has been committed. This determination is final unless the person contests it in a manner set forth in this ordinance.

Section 3: Laws

1 – Solid Waste Storage

- 1.1. Tribal members shall provide their own trash containers and shall maintain the cans in a manner that prevents access to wild or free range animals.
- 1.2. There shall be no excessive accumulation of refuse, garbage or solid waste in the community or around individual homesites.
- 1.3. It shall be unlawful for any person to, or permit the accumulation of unused, large bulky items, such as white goods (refrigerators, stoves, etc.) or inoperable cars or trucks or parts thereof in any open and visible location on Tribal lands.

2 – Solid Waste Disposal

- 2.1. No person may discard litter on Reservation lands
- 2.2. No person shall discard, abandon, leave or deposit any solid, recyclable, C/D, medical or other wastes, debris, trash, vehicles, or rubbish, nor have or permit another to discard, abandon, leave or deposit any such wastes (mentioned above), in a manner which violates this ordinance. If the material discarded, abandoned, left or deposited contains items addressed to a person(s) or otherwise indicates ownership or possession in a person(s), it shall be reputably presumed that such person(s) did personally, or did permit another to, discard, abandon, leave or deposit the material.
- 2.3. No person shall dump, place, abandon, or deposit any solid wastes on land except at disposal sites authorized by the Tribal Solid Waste Department or Environmental Office.
- 2.4. No person shall dump, place, abandon or deposit any solid wastes into Reservation waters to include ponds, springs, streams, and or culverts.

3 – Solid Waste Collection Sites

- 3.1. Solid Waste generated within certain communities on Tribal Lands may be disposed of at the following sites:
 - 3.1.1. The Main Solid waste management Facility is open to all on reservation households and Tribal Staff when disposing of INSY waste.
 - 3.1.2. The Tribal Youth Program Service Bin is open to Tribal Staff disposing of INSY waste.
 - 3.1.3. The San Felipe Service bin is open to enrolled on-reservation households on the San Felipe Housing Tract.
 - 3.1.4. The Demming Ranch Road service bin is open to all enrolled on-reservation households on Santa Ysabel Tract 1 and Santa Ysabel Tract 2.

- 3.2. On-Reservation households may contract services with an outside Waste Management Company so long as the company complies with all applicable Tribal, State, and Federal laws.
- 3.3. No person may operate a landfill or solid waste disposal site or operate a solid waste collection system unless he has obtained a permit for such operation.

4 – Hazardous Materials

- 4.1. No person shall generate, store, transfer, transport, treat, discharge, release or dispose of a hazardous waste through the conduct of any business on Tribal lands, except as permitted under the Resource Conservation and Recovery Act (RCRA) and/or this Ordinance.
- 4.2. Medical or Infectious (SHARPS) waste must be disposed of in accordance with the safety guidelines as set forth by their Primary Care provider. No medical or infectious waste may be disposed of in INSY Solid Waste Facilities.

5 – Burning of Solid Waste

- 5.1. No person shall conduct open burning of any solid waste on Tribal lands, except as permitted under the Resource Conservation and Recovery Act (RCRA) and/or this Ordinance.
- 5.2. Open burning of any material including leaves, grass, brush, etc., is prohibited without an authorized burning permit issued by the Tribe. Burn Permits can be applied for at the INSY Fire Department.
- 5.3. A person commits the civil infraction of Arson when he or she intentionally sets fire to, or burns, or causes to be burned, or aids, counsels, or assists in the burning of any trailer, motor vehicle, camper, dwelling, structure, barn, stable, crops, or open area located within the bounds of the reservation, unless such burning has been expressly authorized by the Santa Ysabel fire Department and /or the Tribal Counsel of the Nation in writing.
- 5.4. No provision of this chapter shall be construed so as to prohibit or impose on Traditional and cultural practices to include, but not limited to, Clothes Burnings, House Burning, and Prescribed Cultural Burns.

6 – Trespassing

- 6.1. Any person entering Tribal lands for the purpose of dumping or disposing of solid waste, or who dumps or disposes of solid waste on Tribal lands in violation of this ordinance shall be guilty of trespass.
- 6.2. Vehicles and equipment used in the violation of this ordinance are subject to confiscation, impoundment, and forfeiture pending appearance to answer or dispute a

citation, and may be used to satisfy fines or penalties which may be assessed by the Inter-Tribal Court of Southern California.

- 6.3. The Council may sue for damages for trespass and any other applicable common law or statutory cause of action in any court of competent jurisdiction. In the case of a trespass conviction, the Tribal Council may initiate a hearing upon such violations and may impose a penalty up to \$10,000, depending on the severity of the infraction, for each violation as well as costs to clean up, abate, remove and mitigate the environmental impacts of the solid waste and to restore the Tribal Trust Land to the condition in which it existed immediately prior to the violation
- 6.4. A violation of Loitering is when a person, without a legitimate purpose, physically remains around tribal facilities on the reservation unless it is during a scheduled tribal function.

7– Authorized Members

- 7.1. Access to the Solid Waste Management Facility shall be authorized to Tribal staff while disposing of INSY waste or conduction official business, Third parties under contract, and individuals residing in on-reservation housing.
- 7.2. Unauthorized use of Tribal member status to benefit non-Tribal members, or collusion by Tribal members to violate or assist in violation of any provision of this Ordinance shall subject the Tribal member to maximum penalties provided by this Ordinance.
- 7.3. No provision of this Chapter shall be construed so as to prohibit a farmer or rancher from disposing solid waste resulting from normal farming operations upon his own land; provided, that such disposal does not create a nuisance or a public health hazard, or does not otherwise violate Tribal law