

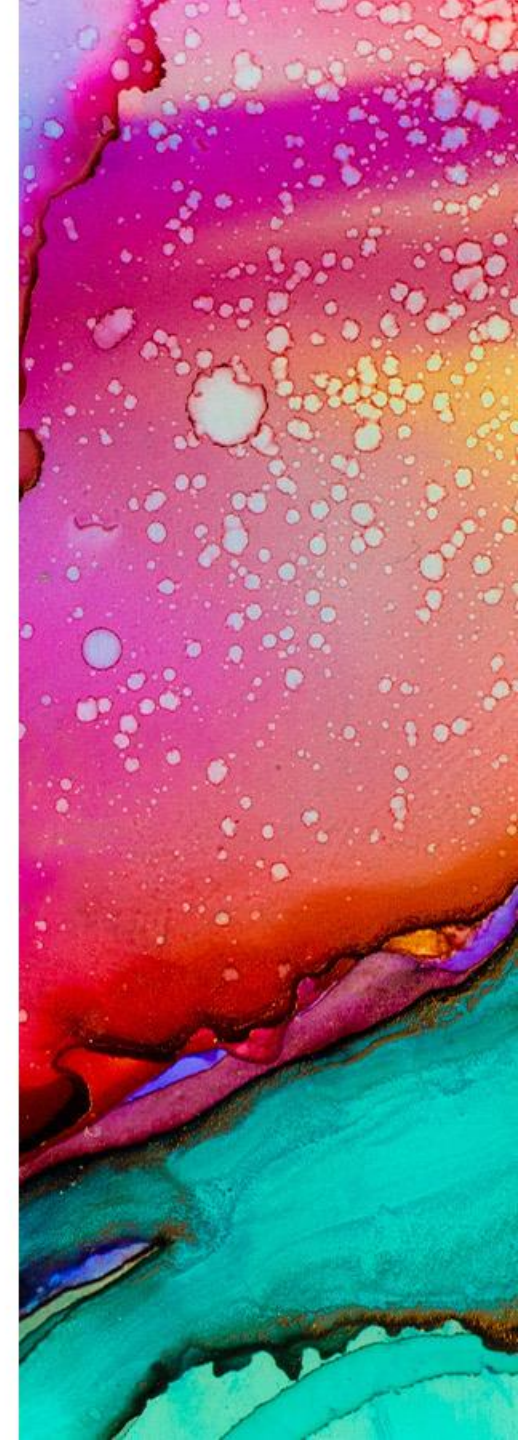


Developing and Implementing Tribal Solid Waste Codes

April 29, 2021

Overview

- Definitions
- Why have Solid Waste Codes/Ordinances?
- Roadmap to Success
 - Brainstorming
 - Steps to Development
 - Steps to Implementation
 - Steps to Enforcement
 - Success
- Case Studies
 - Ekwok Village in Alaska
 - Prairie Band Potawatomi
 - Santee Sioux Nation



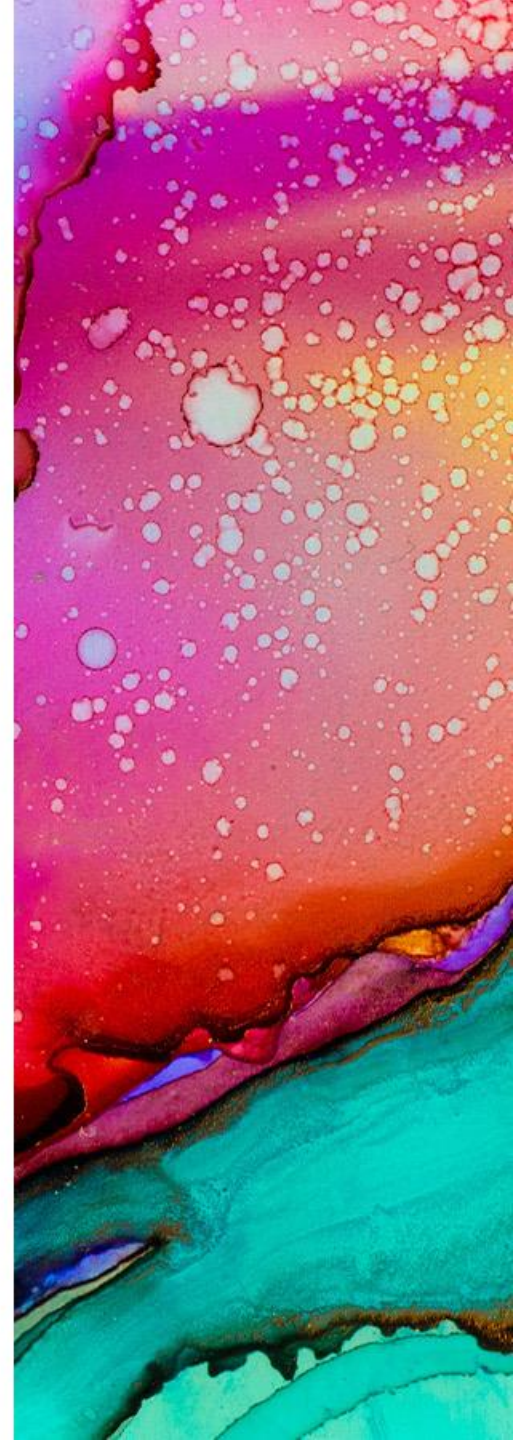
Definitions

- Code- A systematic and comprehensive compilation of laws, rules, or regulations that are consolidated and classified according to subject matter.
- Ordinance- A law, statute, or regulation enacted by a city or town.



Why?

- Protect human health and environment
 - Culturally sensitive resources
 - Areas
 - Subsistence Food- fish, game, plants, etc.
- Promote Tribal waste management goals
 - Solid Waste Management
 - Recycling
 - Composting

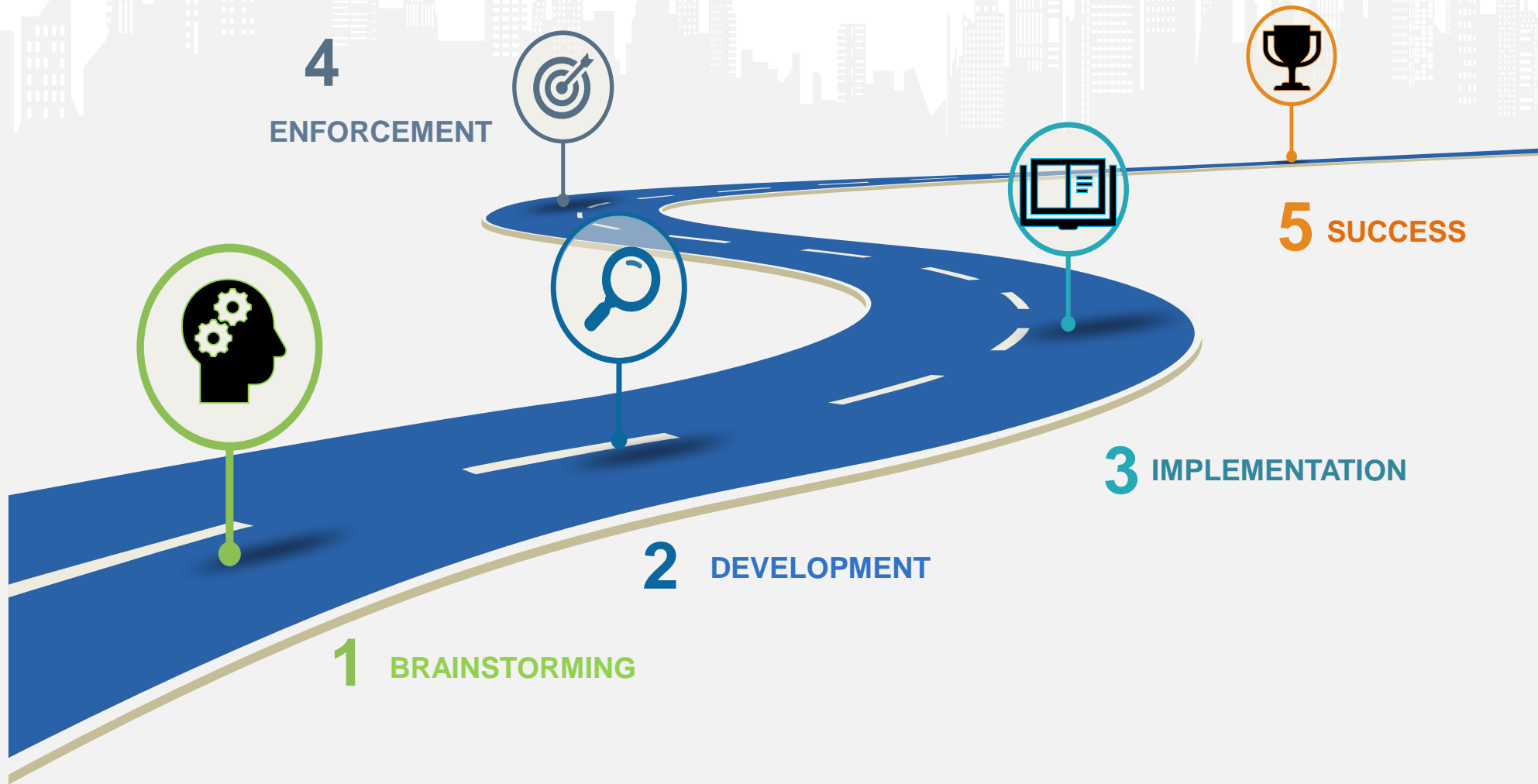


Why?

- Preventing unwanted behaviors
 - Illegal Dumping
 - Littering
- Prevent Brownfields/blighted communities
- Funding requirements
 - IHS and GAP



Roadmap to Success



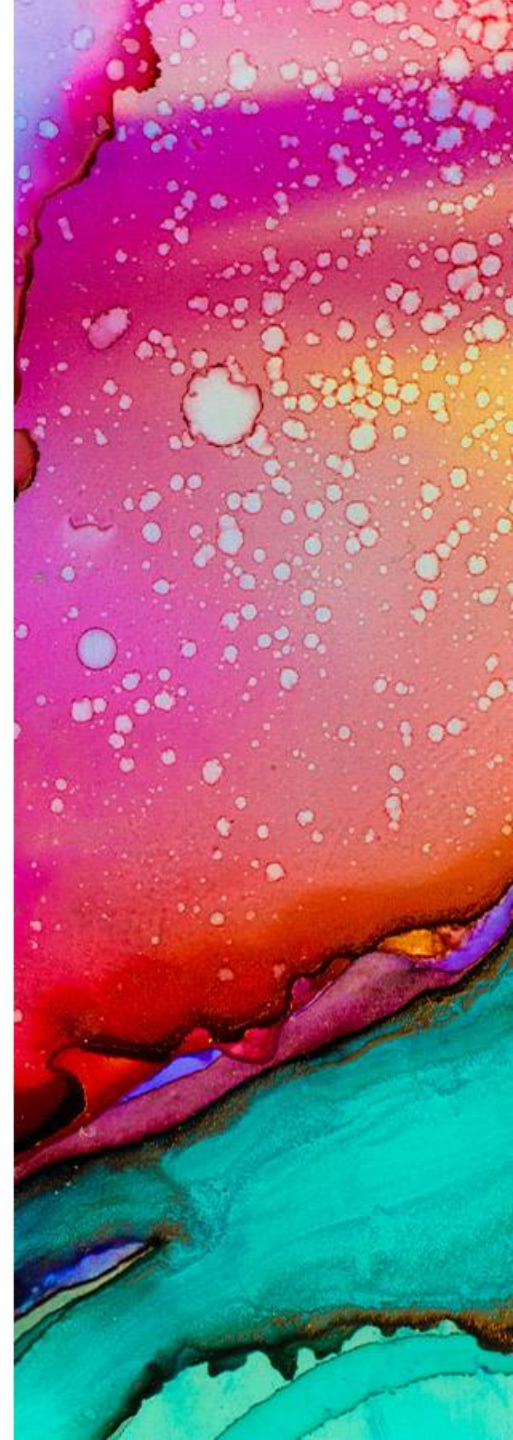
Brainstorming

- Why are Codes/Ordinances needed?
- What are you trying to accomplish?
- What to include?
- Any past or existing SW Codes drafted/developed/adopted?
- Form a workgroup
- Identify and prioritizing waste management issues



Steps to Development

- Trainings
 - ITEP- Development and Implementation of Tribal Solid Waste Codes and Ordinances
 - Collaboration between IHS and EPA
 - KSU Technical Assistance to Brownfields (TAB)
- Peer to Peer
- Resources- templates, Google (research)
- ISWMP



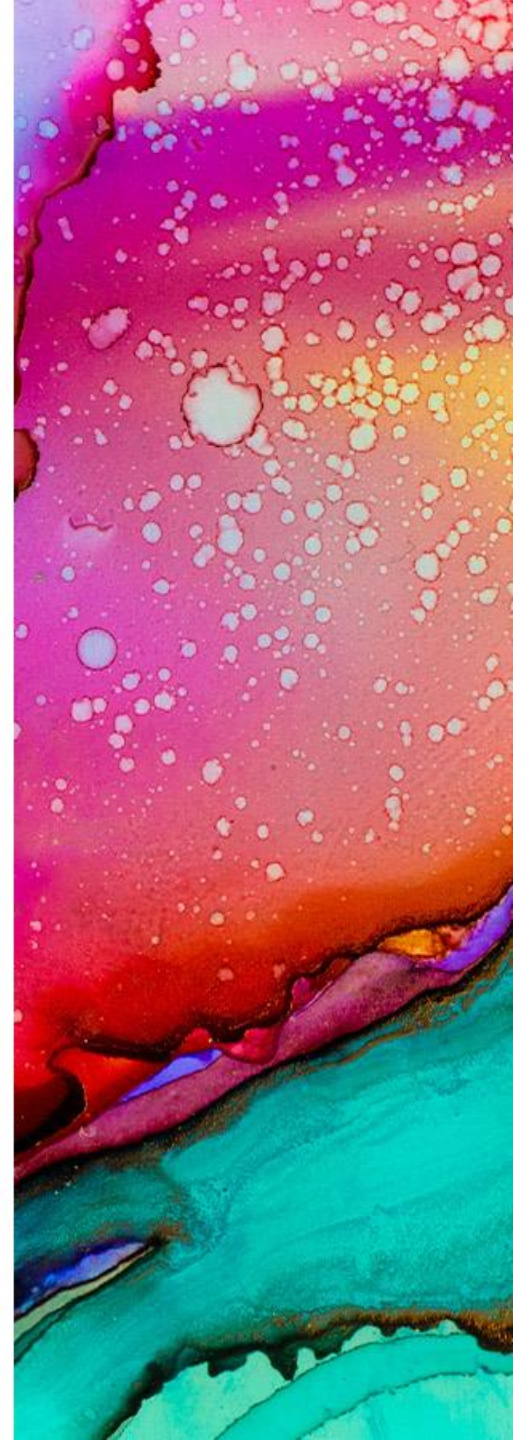
Steps to Implementation



- **Financial Support**
 - Program funding
- **Technical Support**
 - Federal, State, Local agency staff, other Tribes, Tribal Organizations, Consultants or waste management organizations
- **Public Support**
 - Support and Approval from Tribal Members
 - Involve community in all aspects of code development and implementation.
- **Intergovernmental Support**
 - Coordination with other Local, State, or Regional Regulatory Programs

Steps to Enforcement

- Does your Tribe have a police department?
- Does your Tribe have a Tribal Court?
- Possible enforcement mechanisms:
 - Positive
 - Rewards/Incentives
 - Negotiation
 - Negative
 - Penalties
 - Banishment
- Thinking outside the box





Community of Ekwok, Alaska



A stylized, colorful illustration of a landscape. The foreground features rolling green hills with a dark brown path. On the left, there is a green tree, a purple flower, and an orange flower. A small red bird is flying in the sky. The background consists of layered blue and white waves, suggesting a sky or water. The overall style is clean and modern with a paper-like texture.

Solid Waste Ordinance Presentation

April 29, 2021

Why a need to develop ordinances ?

- *Out of control dump*
- *Protect our subsistence foods, land and water.*
- *Tribe took over management & Operation of new landfill*
- *Needed structure to better manage and operate the new landfill*
- *Needed a fee structure to offset maintenance and Operations*
- *Needed to provide best management and disposal practices*
- *Long-Range Environmental Plan goal: To develop ordinances for Solid and Hazardous Waste as well as construction and demolition waste. Included in IGAP Grant.*



Old Dump Identified as a Public Health and Safety Hazard



New Landfill Opened in July 2016

Landfill Service Fee Structure

- Landfill Service Fees were established before any ordinances were developed.
- Landfill Service Fee Agreement was established before any ordinances.
- Used to obtain grant funds
- Show we are able to operate and maintain a facility.

Groups	Monthly fee	Deposit fee
Resident	\$10	\$10
Business	\$100	\$100
Outside Lodges	\$160	\$160
Residential Lodges	\$75	\$75
School	\$200	\$200
Commercial	\$500	\$500

Solid Waste Collection and Disposal Tribal Ordinance #2017-01

- *Held pre-planning meetings*
- *Conducted a survey to determine rate*
- *Held community meetings*
- *Drafted the ordinance*
- *Reached out to ITEP for a Mentor, got an attorney to review our draft ordinance*
- *Identified issues prior to finalizing the ordinance.*
 - ✓ *Household leaves community, leaves garbage behind*
 - ✓ *Homeowners waiting to pay fee, causing garbage accumulation*
 - ✓ *Implemented additional fees for a cartload*
- *Draft edited on May 8, 2017 and passed on May 9, 2017.*
- *100% success rate of homeowners paying their fee, with a few sporadic.*

Uncontrolled and Non compliant



Implementation of Ordinance

AN ORDINANCE pertaining to public health, safety and welfare

BE IT ENACTED BY THE EKWOK VILLAGE COUNCIL AS FOLLOWS:

Section 1. Purpose

To establish an Ordinance for collecting and disposing solid waste.

Classification

This Ordinance is of a general and permanent nature.

Effective date

This Ordinance becomes effective upon adoption by the Ekwok Village Council.

Introduction: February 14, 2017

First Reading: April 11, 2017

Public Hearing and Adoption: May 9, 2017

ADOPTED BY A DULY CONSTITUED QUORUM OF THE EKWOK VILLAGE COUNCIL THIS 9th DAY OF May, 2017.



Posted ordinance in public places, mailed to households, businesses, schools, local and outside lodges. Gave to commercial businesses who requested to use the landfill.

Controlled and Maintained

Hired a landfill Operator to pick up garbage on Mondays, Wednesdays, and Fridays from 11:00am to 3:00pm.

Enforcement of Ordinance

- Ordinance is administered by Ekwok Village Council
- Enforced by IGAP Staff
- Fee has to be paid in order for garbage to be picked up
- Cartload fees are charged, if not in compliance, before any garbage is picked up
- Non-compliance fees are charged per occurrence for different groups and services are withheld until account is paid.
- Council may change rates for collection fees
 - posted for public inspection for five consecutive days.
 - all rates are available for public inspection during regular business hours

Other Ordinances Passed:

Tribal Legislative Process

Ekwok Village Council
P.O. Box 70
Ekwok, Alaska 99580

Tribal Legislative Process
Tribal Ordinance #2018-01

An ordinance to set up a clear and structured legislative process to passing law.

BE IT ENACTED BY THE EKWOK VILLAGE COUNCIL AS FOLLOWS:

Section 1. Purpose

To establish a process for the Ekwok Village Council to follow in passing law.

Classification


This ordinance is permanent in nature and shall be a part of the constitution of the Native Village of Ekwok.

Effective date

This ordinance becomes effective upon adoption by the Ekwok Village Council.

Introduction: June 6, 2018
First Reading: August 2, 2018
Public Hearing and Adoption: September 10, 2018

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE EKWOK VILLAGE COUNCIL
THIS 10th DAY OF September, 2018.


PRESIDENT

ATTEST:


SECRETARY

Construction & Demolition Waste

Ekwok Village Council
P.O. Box 70
Ekwok, Alaska 99580

Construction and Demolition Waste
Tribal Ordinance #2018 - 02

An Ordinance pertaining to construction and demolition waste.

BE IT ENACTED BY THE EKWOK VILLAGE COUNCIL AS FOLLOWS:

Section 1. Purpose

An ordinance to regulate, dispose, and recycle construction and demolition waste in order to protect the public safety, health and welfare of the community of Ekwok. Handling and disposal of special and hazardous waste are not covered under this Ordinance.

Classification

This ordinance is of general purpose and permanent in nature.

Effective date

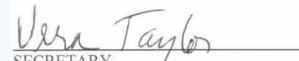
This ordinance becomes effective upon adoption by the Ekwok Village Council.

Introduction: August 2, 2018
First Reading: September 10, 2018
Public Hearing and Adoption: October 8, 2018

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE EKWOK VILLAGE
COUNCIL THIS 8th DAY OF October, 2018.


PRESIDENT

ATTEST:


SECRETARY

Wrap-up

The Community of Ekwok is pleased with our success of fully implementing the Solid Waste Collection and Disposal Tribal Ordinance. This gave us the structure and procedures to fully guide our best management practices of operating our new landfill, so that it does not end up out of control, keeps our environment healthy, safe, and free from contamination for generations to come.

Protecting our
Subsistence foods



Smoking
King
Salmon

THANK YOU



Questions

Contact Information:

Lorraine King, Environmental Coordinator
Ekwok Village Council
P.O. Box 70
Ekwok, Alaska 99580
(907) 464-3300 (Monday-Thursday)
king2lorraine@yahoo.com



Developing and Implementing Tribal Waste Management Codes

Virginia LeClere, Environmental Manager

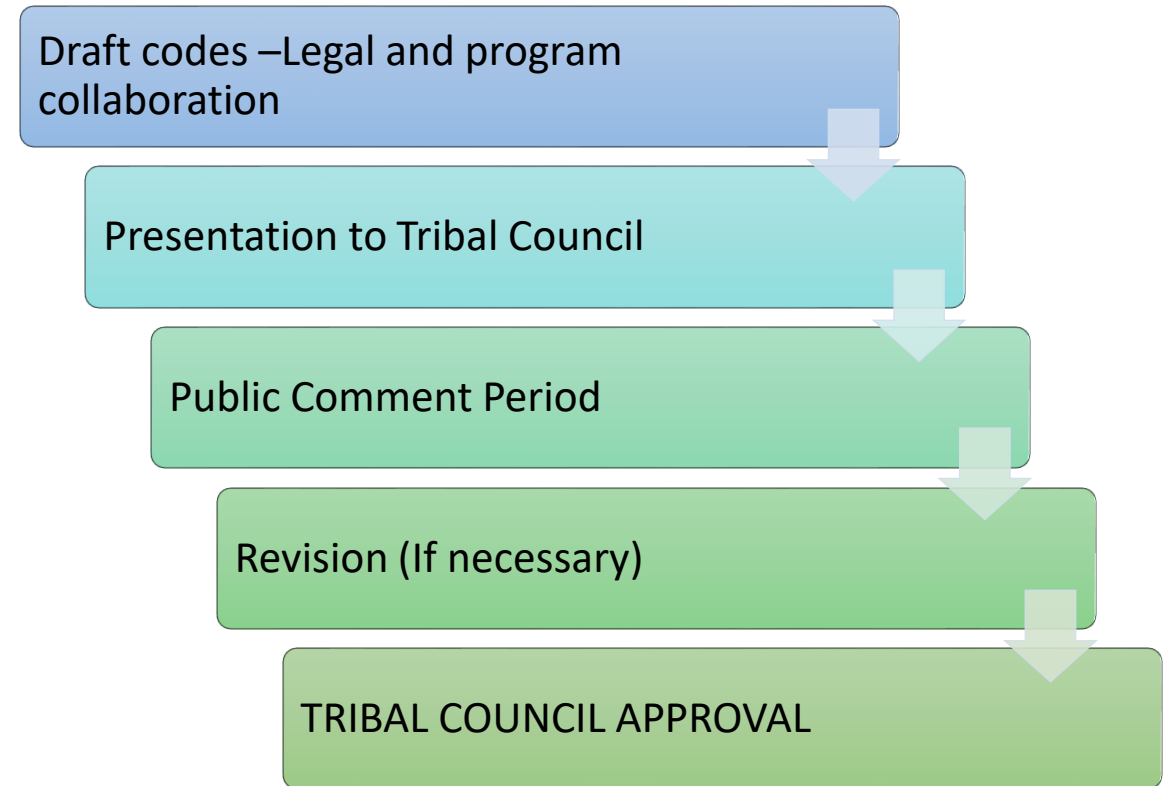
Prairie Band Potawatomi Nation

virginialeclere@pbpnation.org



Potawatomi Law & Order Code Title 21 Solid Waste, Sanitation & Building Codes

- Developed in 2000. Revised in 2005, 2008 and proposed revisions for 2021.
- Originally written and organized by Department function/responsibility (that's why the 3 very different functions of waste, sanitation & building codes were lumped into one title section)



Key Sections of PBPN Title 21-1 Solid Waste Management Code

- 21-1-1 – Authority & Jurisdiction
- 21-1-2 – Designation of Lead Agency (PEP)
- 21-1-3 – Solid Waste Management Plan and Consideration
- 21-1-4 – Solid Waste Collections
- 21-1-5 – Permit and Inspection Program
- 21-1-6 – Enforcement Program

- 21-1-7 - Definitions

21-1-4 Solid Waste Collections

2008 revision included a unique requirement for Reservation collection:

(B) Collection Services. All solid waste accumulated within tribal-owned housing and concentrated tribal housing locations shall be collected, conveyed and disposed of by the Department or by contractors specifically authorized to collect and dispose of solid waste

21-1-6 Enforcement Program

The PBPN enforcement section includes legal process language (hearing, discovery, subpoena, evidence etc.) likely created for enforcement of larger issues such as permitted generator violations. However, the most utilized and referenced section is normally applied to “smaller” issues such as littering and open dumping violations.

2) Penalties for disposal of solid waste in open dumps. Any person who disposes of solid waste in an open dump, not on his/her property, shall be liable for a civil penalty of two hundred and fifty dollars (\$250.00) plus court costs, to be assessed by the Potawatomi Tribal Court in an action filed by the Department after an opportunity to be heard. Any property owner who is found to have an open dump on his/her property shall be notified, in writing by the Department, of this violation and be given fifteen (15) days to clean up the open dump. If the property owner fails to clean up the dump within this fifteen (15) day period, the property owner shall be liable for a civil penalty of two hundred and fifty dollars (\$250.00) plus court costs, to be assessed by the Potawatomi Tribal Court in an action filed by the Department after an opportunity to be heard.

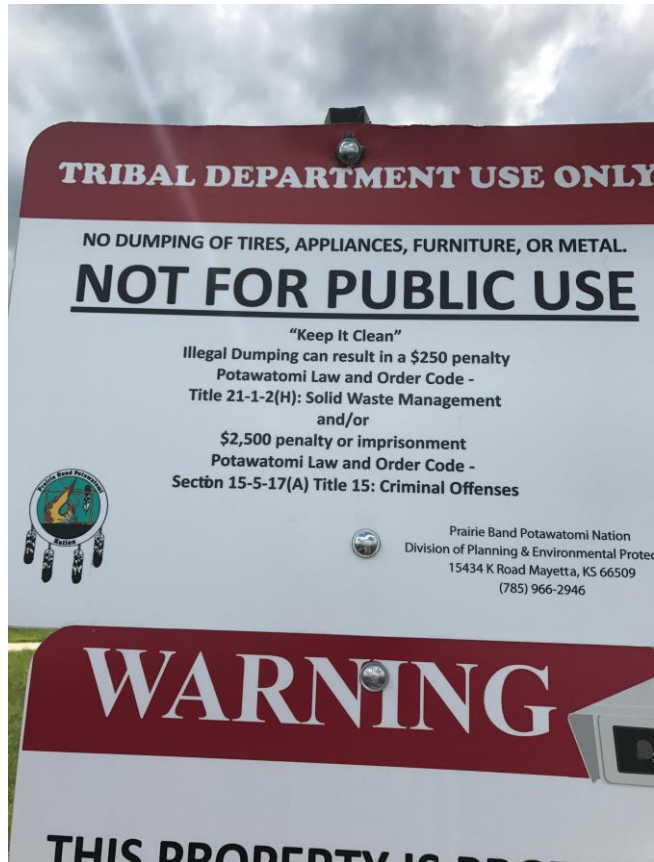
PBP Title 15 – Criminal Offenses

Title 15 is primarily executed under the authority of the Tribal Law Enforcement and court system. Criminal littering is difficult to prove and enforce but the provision still provides protection and is a useful deterrent when cited and posted.

15-5-17 Littering

- *(A) It shall be unlawful to throw, dump, place or deposit upon the lands of another or any tribal or public property, or highway, street, road, or other area not the person's own, without the consent of the owner or other lawful permission, any garbage, debris, junk, carcasses, trash, refuse or other substances of any nature whatsoever which could mar the appearance or detract from the cleanliness of the area; or to store, keep, or allow to accumulate an unreasonable number of any wrecked, junked, or unserviceable vehicles, appliances, or implements, unless one has a permit from the Nation to maintain a junk yard.*
- *(B) Littering shall be punishable by a fine not to exceed \$2,500 or by a term of imprisonment in the tribal jail not to exceed three months, or both.*

Example Code Citation – Violation letter, signage



Solid Waste Management Program VIOLATION NOTICE

Date: March 2, 2020
To: [REDACTED]
From: Division of Planning and Environmental Protection
Subject: **Illegal Dumping Violation**

The PBPB Planning and Environmental Protection staff identified an illegal/open dump containing several items identifying you and members of your household. The household waste is improperly located on another's property and must be removed immediately.

The Potawatomi Law & Order Code, [Title 21 Solid Waste Management Code, Section 21-1-5 Enforcement Program](#), stipulates a prohibition on disposal in any open dump within the boundaries of the Reservation. There is a provision for penalty for such disposal of \$250.

In addition, the Potawatomi Law & Order Code [Title 15 Criminal Offenses, Section 15-5-17](#), Littering, addresses **improper disposal** of waste. There is a provision for penalty not to exceed \$2,500 or by a term of imprisonment in the tribal jail not to exceed three months, or both.

To avoid enforcement measures, you must either 1.) clean up the site and properly dispose of the waste OR 2.) complete the Request for Assistance application form and pay the associated \$20.00 fee within 7 days of this notice.

The Prairie Band Potawatomi Nation expects your support of the Nation's solid waste management codes and programs. It is critical to the preservation of our land and resources and the protection of



Thank You!



Santee Sioux Nation Code Development, Implementation & Enforcement

Page Hingst, TRP Manager

Developing and Implementing Tribal Solid Waste Codes

April 29, 2021

Background and Problem

- Northeast Nebraska along the Missouri River
- ~ 116,000 acres
- Issues
 - Illegal Dumping/Littering- 2018
 - 33 dump sites
 - 3 Active
 - Poor Solid Waste Management
 - Old SW Code-not enforced



Dumpsites



CODE DEVELOPMENT

- Attended ITEP's Developing and Implementing Tribal Codes and Ordinances
- 1st Course: March 13-15, 2018
 - Loved the class
 - Very excited to start drafting codes
 - Concerns:
 - Enforcement
 - Code adoption
- 2nd Course: July 17-19, 2018
 - Draft Codes Due
 - Little did they know.....



Draft Codes



23 Pages of Draft Codes



Draft Codes

TITLE VIII Environmental Code

Chapter 1 Solid Waste Act

Effective Date: _____

Section 1: General Provisions

- A. Short Title. The following Chapter of Title VIII shall be known and may be cited as the Santee Sioux Nation (SSN) Solid Waste Act.
- B. The Tribe's Inherent Sovereign Power. The Tribe has inherent sovereign power to manage and regulate the storage, collection, transportation, handling, treatment and disposal of waste on the Santee Sioux Reservation.
- C. Purpose. The purpose of the Solid Waste Act is to provide for the establishment of a solid waste management program to protect the health, safety, and well-being of residents within the jurisdiction of the Santee Sioux Nation.
- D. Findings. The SSN Tribal Council finds and declares as follows:
- The increasing volume and variety of solid waste being generated on the Reservation and often inadequate existing methods of managing solid waste is creating conditions that threaten the public health, safety and wellbeing by contributing to land, air and water pollution.
- E. Effective Date. The Solid Waste Act shall be in full force and effective on the date of formal approval and adoption by the Tribal Council.
- F. Authority. The Solid Waste Act is adopted under the authority of the Constitution and By-laws of the Santee Sioux Nation, Article IV, Sections 1(j), (p) to protect, preserve and regulate the use of property (including intellectual property), both surface and subsurface, wildlife, land, air, and other natural resources (including surface and ground waters) of the Tribe. The Tribe shall have full authority over enforcement of the Solid Waste Act and may delegate authority to the Utilities Commission, the Office of Environmental Protection (OEP) and other Tribal programs as deemed appropriate, to implement and enforce provisions of the Solid Waste Act.
- G. Scope. The Solid Waste Act applies to the storage, collection, transfer, recycling, disposal, and treatment of solid waste by any person within the Reservation. The Solid Waste Act also applies to any commercial or other entity that does or has business within the exterior boundaries of the Santee Sioux Nation Reservation.

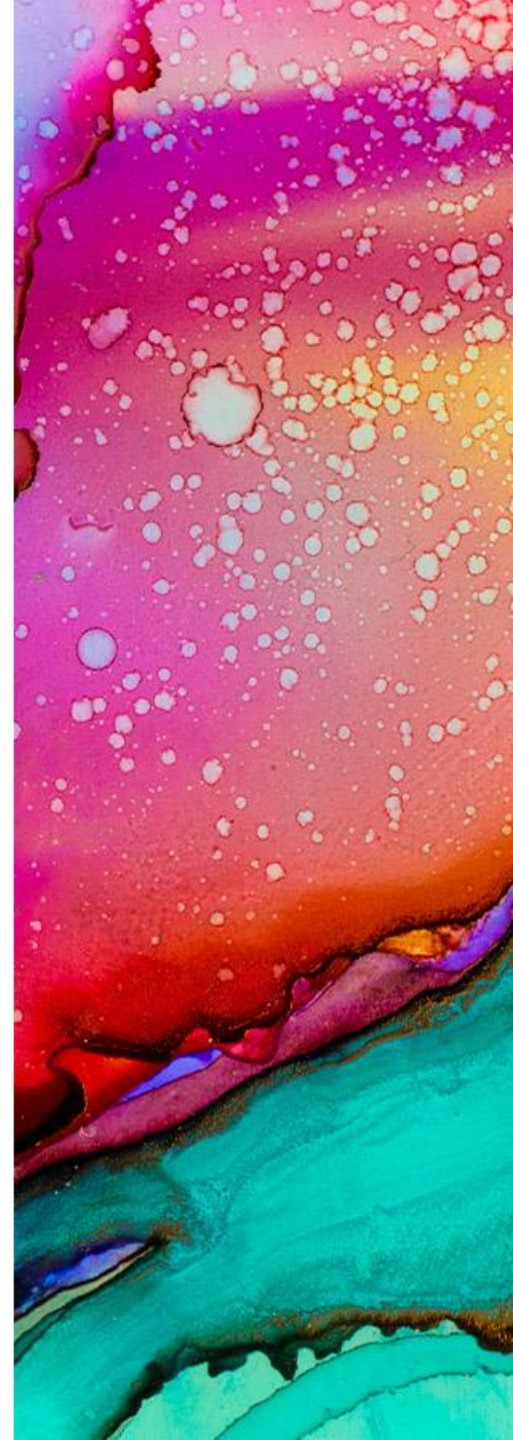
H. Jurisdiction. The Tribal Court of the SSN has civil jurisdiction over all persons that are subject to the provisions of the Solid Waste Act to include the conduct of all persons on all lands within the Reservation boundaries to maintain the environment, natural resources, public health, safety, welfare, political integrity and economic wellbeing of the Tribe. This shall include:

1. Any person that has entered into a consensual agreement with the Tribe or its members; or
 2. Any person whose conduct threatens or has some direct effect on the political integrity, economic security, health or welfare of the Tribe.
- I. Repeal. Any ordinance, provision of law, rule, or regulation of the Tribe in conflict with this Act is hereby superseded.
- J. Severability. Any provision of the Solid Waste Act or its application to any person in any circumstance that is declared invalid shall be severed from the Act and the remaining provisions or applications of this Act shall remain in effect and enforceable.
- K. Sovereign Immunity. Nothing in this Act may be deemed a waiver of tribal sovereign immunity, and if any court of competent jurisdiction construes this provision as conflicting with any other provision in this Act, then this express retention of sovereign immunity shall control and prevail unless specifically waived in a formal, fully executed Resolution by the Tribal Council.

Section 2: Definitions

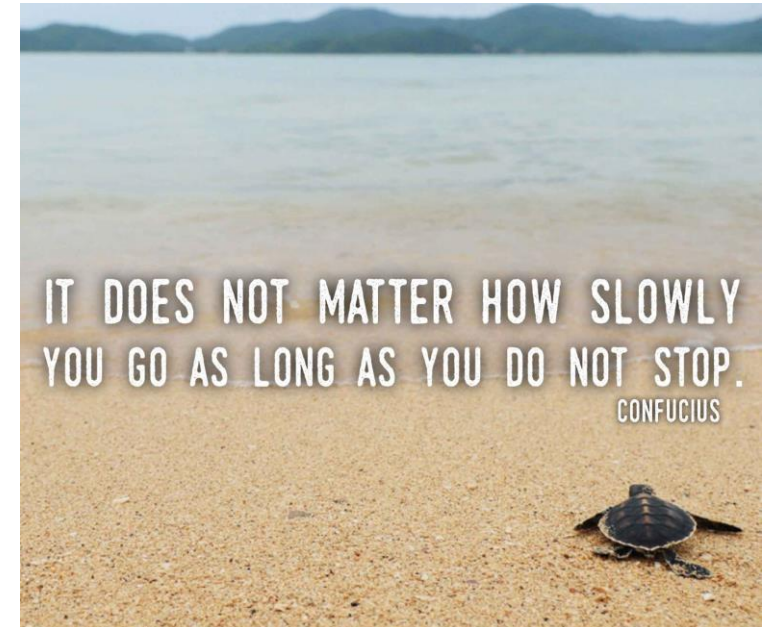
As used in this Act, the words and terms below shall have the following meanings. Note, the singular includes the plural and vice versa and the masculine includes the feminine and vice versa:

- A. **Construction and Demolition Waste** means refuse, materials and rubble associated with the construction, remodeling, repair or dismantling of such objects as roads, buildings, or similar structures.
- B. **Disposal** means the discharge, abandonment, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on any soil, air or water, intentional or otherwise.
- C. **Illegal dumping** means placing, throwing, dropping, depositing, sweeping, disposing, or leaving of any organic or inorganic rubbish, waste matter, refuse, garbage, bulky item, construction material, hazardous waste or solid waste, or other solid, semisolid, or liquid on any unauthorized public or private property greater than one cubic foot.



IMPLEMENTATION

- 2018
 - October 5th- Proposed to Tribal Council
 - November 6th- Sent to Tribal Attorney
 - December 19th- Phone call with Tribal Attorney
- 2019
 - January 9th- Attorney Draft sent for review
 - January 10th- Responded with revisions
 - January 18th- Final Draft received- Ready to submit to Tribal Council
 - March 13th- Flooding on the Santee Sioux Nation Reservation
 - October 17th- Approved by Tribal Council w/ edits made
- 2020
 - Covid-19
- 2021
 - January 21st- Informed Codes have never been adopted
 - Will re-present them to Tribal Council soon



Code- Prohibited Activities and Penalties

Section 3: Prohibited Practices and Activities

The following acts are prohibited within the exterior boundaries of the Reservation and are subject to potential compliance and enforcement action, including fines or other penalties.

- A. Construction and Demolition Wastes. It is unlawful to dispose of construction and demolition wastes on any unauthorized public or private property on the Reservation without written approval from OEP.
- B. Illegal Dumping. It is unlawful to illegally dump anywhere on the Reservation.
- C. Littering. It is unlawful to litter anywhere on the Reservation.
- D. Used or Scrap Tires. It is unlawful to dispose or abandon used or scrap tires on any unauthorized public or private property on the Reservation without written approval from OEP.
- E. Major Appliances and Other White Goods. It is unlawful to dispose or abandon any white good on any unauthorized public or private property on the Reservation without written approval from OEP.

Section 4: Penalties

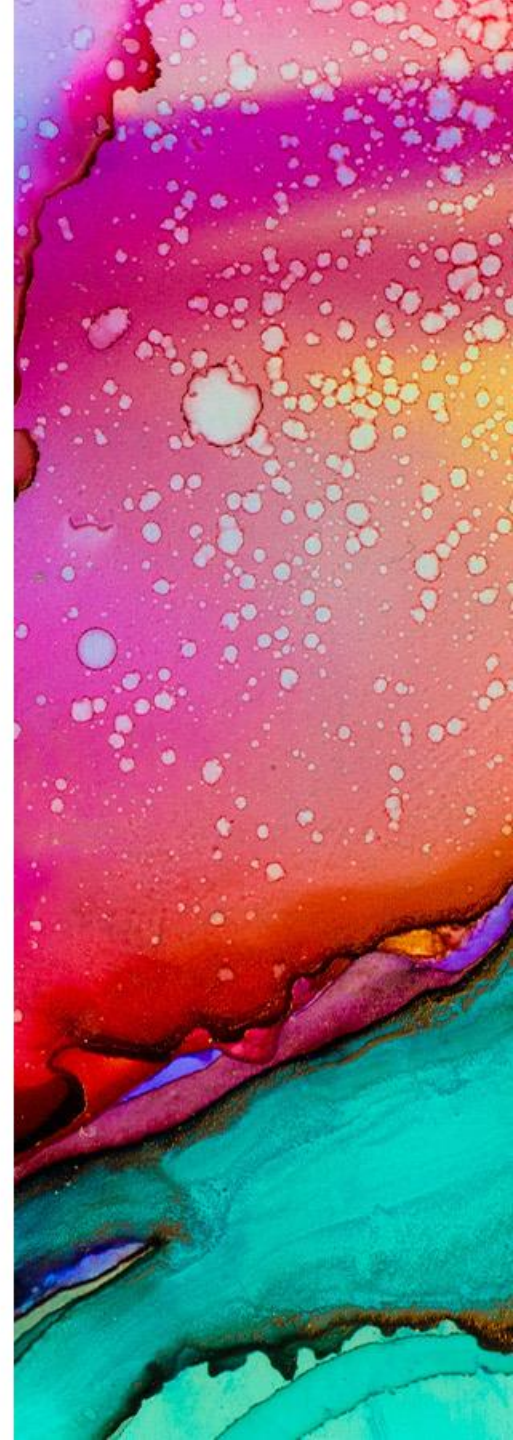
- A. Any person who violates any provision in Section 3 above, Prohibited Acts, shall be subject to one or more of the following penalties:
 - 1. Litter amounts equal to one cubic inch or less: Written warning.
 - 2. Litter amounts equal to one cubic foot or less, or illegal dumping greater than one cubic foot but less than three cubic feet: \$25.00 to \$500.00 in fines and/or up to 100 hours of community service, to be determined by the Santee Sioux Nation Tribal Court plus the cost of cleanup for any materials illegally dumped. The assigned community service may involve the collection and removal of roadside trash, or trash which has accumulated in illegal dumps on the Reservation.
 - 3. Illegal dumping greater than three cubic feet but less than 15 cubic feet or repeat offender: \$500.00 to \$1,000.00 in fines, plus the cost of cleanup for the materials illegally dumped, and/or up to 200 hours of community service as specified in Section 4(A)(2) above.
 - 4. Illegal dumping equal to 15 cubic feet or greater, or dumping that involves hazardous materials or toxic substances or repeat offender: \$1,000.00 to \$1,500.00 in fines per

each subsequent violation, plus the cost of cleanup for the materials illegally dumped, and/or up to 300 hours of community service as specified in Section 4(A)(2) above.

- B. Penalty Assessment Criteria. In determining the amount of a civil penalty under this Section, the Tribal Court, as appropriate, may consider the following factors:
 - 1. The extent to which the violation has damaged the environmental or cultural resources of the Tribe and the extent to which such damage may be repaired;
 - 2. Whether natural or cultural resources that were damaged by the offender are irreplaceable;
 - 3. The economic impact of the penalty on the offender;
 - 4. The offender's full compliance history and good faith efforts to comply;
 - 5. Payment by the offender of penalties previously assessed for previous violations;
 - 6. The seriousness of the violation; and
 - 7. The number of violations the offender has committed.
- C. Banishment/Exclusion. Any person who does not comply with the penalties levied and/or assigned may be subject to exclusion from the Reservation.
- D. Repeat Offender. For purposes of Section 4 of this Act, particularly as used in Sections 4(A)(3)-(4), Repeat Offender means a person who has been found guilty, pleaded guilty, or nolo contendere ("no contest") of an offense under this Act.

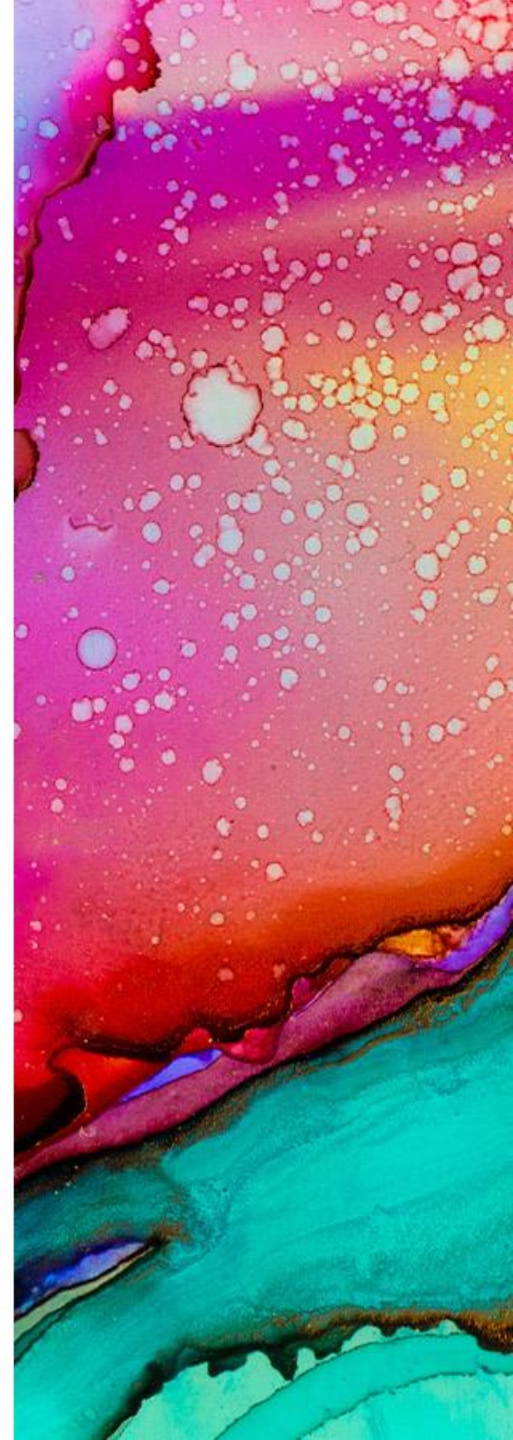
Section 5: Disposition of Civil Penalty Funds

Civil fines collected under this Act shall be paid to a separate account and shall be used to help defray the costs of responses to environmental cleanups on the Reservation.



ENFORCEMENT

- Work with the Santee Tribal Police Depart.
- 1 incident of illegal dumping
 - Negotiation
- Other mechanisms in place
 - GAP Funding- Free Bulky Item Pickup
 - Public Outreach
 - Partnerships



Baby Steps

Small Steps
Equal Sure
Success



Patience



Persistence

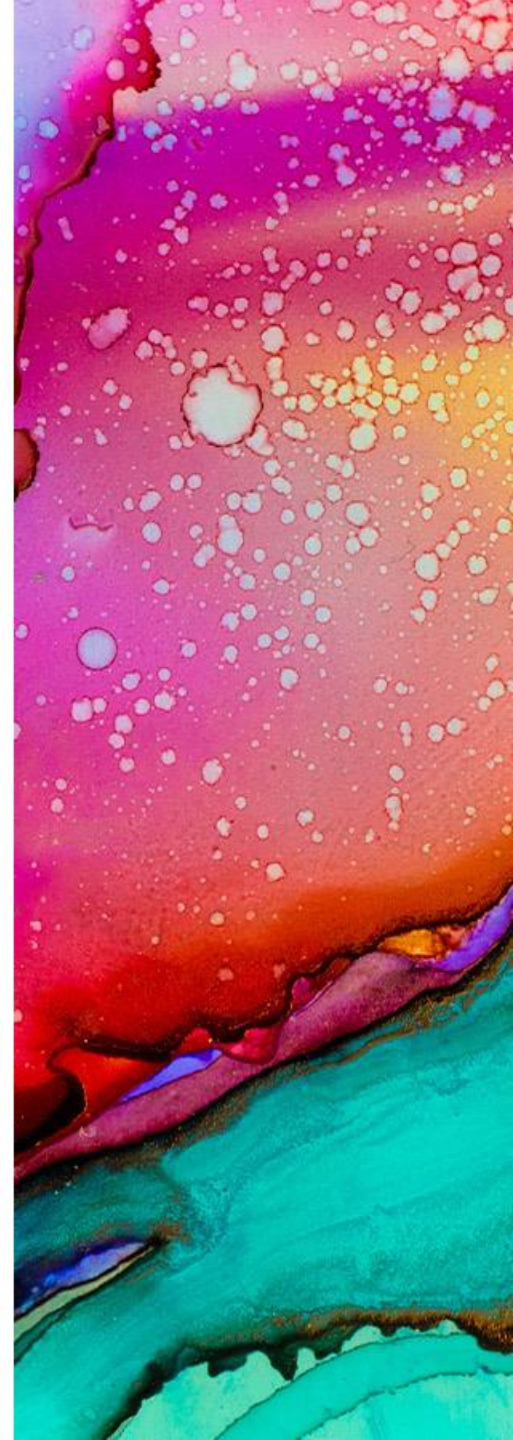




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RESOURCES



- One-on-One Assistance with Reviewing Draft Codes: Contact Charles Reddoor (reddoor.charles@epa.gov)
- [Future ITEP Training](#)
- [National Indian Law Library](#): Search and review other tribe's waste codes
- General Information: [EPA's Tribal Waste Management Program Website](#)



THANK YOU

Contact Info:

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Virginia LeClere, Environmental Manager
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