

# **AN ORDINANCE RELATING TO SOLID WASTE**

## **ORDINANCE #6**

### **SOLID WASTE PURPOSE**

To preserve and secure the health, comfort, welfare and safety of the general public by regulating the uncontrolled disposal of solid waste within the Reservation.

### **DEFINITIONS**

For the purposes of this chapter the following definitions shall apply:

1. "Approved site" means a site permitted and approved by the Tribal Department of Environmental Planning of the Stewarts Point Rancheria, Kashia Band of Pomo Indians as a site for collection and/or disposal of solid waste.
2. "Permitted contractor" is a person who has a valid permit from the Tribal Department of Environmental Planning or the Stewarts Point Rancheria Business Council to recover and transport solid waste.
3. "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation) partnership, association, State, municipality, commission, political subdivision, of a State, or any interstate body.
4. "Open dump" means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 of RCRA and which is not a facility for disposal of hazardous waste.
5. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.
6. "Open burning" means the combustion of solid waste without:
  - a) Control of combustion air to maintain adequate temperature for efficient combustion,
  - b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, andControl of the emission of the combustion products.

7. "Operator" means the person(s) responsible for the overall operation of a facility or part of a facility.
8. 'Owner means the person(s) who owns a facility or part of a facility.
9. 'Run-off means any rainwater, leachate, or other liquid that drains over land from any part of a facility.
10. Run-on means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.
11. 'Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant.
12. 'Solid waste' means all solid and semi-solid wastes including any garbage, trash, rubbish, 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, such as ashes, dead animals, abandoned vehicles, infectious wastes, hazardous wastes, street and parking lot cleanings, 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 point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).

## **Section I. RESPONSIBILITY FOR STORAGE AND DISPOSAL OF SOLID WASTE**

- A. ANY person generating, producing, storing, or any person who has received any solid waste shall be responsible for the proper storage, removal, transport and disposal of solid waste. Solid waste, while being transported, shall be covered, tied or other wise secured so waste will not be blown or dropped from the transport vehicle.
- B. IN addition to other persons who may be responsible as set forth in this section and for the purpose of this chapter, a person generating solid waste is responsible for the lawful storage, removal, transport and disposal of that solid waste until it is legally deposited in an approved site or collected by a permitted contractor.
- C. WHEN solid waste is dumped or deposited in violation of this chapter and three or more items in the solid waste identify the same person as the owner or recipient of that waste, there shall be a rebuttal presumption that the person is responsible for the unlawful

dumping of solid waste.

D. ANY person who by contact, agreement or otherwise arranges for the recovery, transport, disposal or dumping of solid waste is responsible for complying with the provisions of this chapter regarding that solid waste.

## **Section II. UNLAWFUL STORAGE AND DISPOSAL OF SOLID WASTE**

A. IT is unlawful to store or accumulate solid waste in a manner that is a hazard to the public health and safety, as determined by the Stewarts Point Rancheria Department of Environmental Planning and continues to be stored or accumulated in such a manner for more than fifteen days after receipt of written notice from the Stewarts Point Rancheria Business Council of the hazardous condition.

B. IT is unlawful to collect and transport solid waste unless the person who is responsible for that waste pursuant to the provisions of Section I. or the person is a permitted contractor.

C. IT is unlawful for a person to dump, deposit or dispose of solid waste any place within the exterior boundaries of the Stewarts Point Rancheria other than at an approved site.

IT is unlawful for a person conduct open burning of solid waste.

## **Section III. RECOVERY OF DISPOSAL COSTS**

A. IF a person violates Section II.A.B.C. or D. and the Stewarts Point Rancheria arranges for or executes the lawful disposal of the solid waste, that person shall be responsible to the Stewarts Point Rancheria for all reasonable costs and expenses associated with the transportation and proper disposal of the solid waste.

B. IF the Stewarts Point Rancheria or a property owner files suite to collect their reasonable costs and expenses for disposal of the waste as provided in subsections A and B of this section, the Federal court may award a reasonable amount as attorney's fees to the prevailing party.

## **Section IV. PENALTIES**

A. Any person who violates subsections A and B of Section III shall be guilty and shall be subject to penalties by the Tribe:

**First violation:** Up to \$500.00 (five hundred dollars) in fines and/or one hundred hours of community service, to be determined by the The Stewarts Point

Rancheria Business Council, if a Tribal Court has not been established, plus the cost of cleanup for the materials illegally dumped. The assigned community service shall involve the collection and removal of roadside trash, or trash which has accumulated in illegal dumps on the Rancheria.

**Second violation:** Up to \$1000.00 (one thousand dollars) in fines, plus the cost of cleanup for the materials illegally dumped, and/or two hundred hours of community service (as specified in subsection [1] above).

**Third and subsequent violations:** Up to \$1500.00 (one thousand five hundred dollars) in fines per each subsequent violation, plus the cost of cleanup for the materials illegally dumped, and/or three hundred hours of community service (as specified in subsection [1] above).

B. ANY person who does not comply with the penalties levied and/or assigned will be subject to exclusion from the Rancheria.

#### **Section V. EFFECTIVE DATE**

The provisions of this ordinance will take effect thirty days from the date of enactment. No provision of the code shall be construed to be retroactive.

