

**TITLE 13
SOLID WASTE MANAGEMENT CODE**

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TITLE 13
NEZ PERCE TRIBE SOLID WASTE MANAGEMENT CODE

(adopted by NPTEC 2/26/08)

CHAPTER 13-1 AUTHORITY, PURPOSE, TITLE AND SCOPE

§13-1-1 Authority and Purpose

The purpose of this code is to establish an affordable, economical and environmentally safe solid waste disposal system for Nez Perce Tribal lands, people, home sites, businesses, churches and government facilities with proper and affordable disposal as a main goal.

§13-1-2 Short Title

This ordinance shall be known as and may be cited as "The Nez Perce Tribe Solid Waste Management Code" (herein "the code"). Definitions of words used herein are provided in Chapter 13-2.

§13-1-3 Scope of Code

(a) This ordinance shall apply to all tribally owned lands, structures, home sites, businesses, persons and facilities within the boundaries of the reservation area.

(b) This Code is enacted pursuant to the sovereign tribal powers expressly delegated to the Nez Perce Tribal Executive Committee (NPTEC) in Article III of the Tribe's Constitution, which authorizes the NPTEC to manage and otherwise deal with Tribal lands, natural resources and property; to promulgate and enforce ordinances providing for the health, safety, and welfare of the Tribe and its members and to protect the environment.

§13-1-4 Solid Waste Policies

(a) The Tribe desires to manage and regulate collection, storage, transportation, and disposal of its solid waste on the Reservation in order to protect the tribal environment and the health and welfare of tribal members living on or visiting the reservation.

(b) The Tribe and certain Federal agencies may be required by Federal law to comply with the disposal of solid wastes on the Reservation under the Federal Solid Waste Disposal Act (herein "the SWDA"), as amended by the Resource Conservation and Recovery act (herein "RCRA"), 42 U.S.C.A Sects. 6901-6992; and more specifically, subchapter IV, "State or Regional Solid Waste Plans", 42 U.S.C.A. Sects. 6941-6949(a) or SEDA Sects. 4001-4010.

(c) These Federal laws also include the various solid waste regulations promulgated there under by the U.S. Environmental Protection Agency (herein "EPA"), including the comprehensive final rules and regulations contained inn 40 CFR Part 285, (herein "the part 258 Criteria"), for the location, design, operation, closure, post-closure, and financial assurance requirements for municipal solid waste landfills.

(d) The Tribe intends by the adoption of this Code, to comply with the SWDA, and the Part 258 Criteria. Once the Tribe's Solid Waste Management Plan is adopted by the NPTEC, the Tribe shall apply to EPA for its approval of the Tribe's solid waste program as required under this Code, pursuant to the requirements of 40 CFR Part 258 Criteria. The Code prohibits the disposal of any solid waste except in MSWLFs which comply with the Part 258 Criteria. Disposal of solid waste at "open dumps" is prohibited under this Code.

§13-1-5 Sovereign Immunity

Neither the Code, nor any action or agreement of the Tribe regarding this Code shall be construed as, or is intended to be a, waiver or modification of any sovereign immunity now enjoyed by the Tribe, or a consent by the Tribe to jurisdiction or suit against it.

CHAPTER 13-2 DEFINITIONS

§13-2-1 Definitions

The following definitions apply generally to the provisions of this Code.

- (a) Ashes: The residue from the burning of wood, coal, coke or other combustible materials;
- (b) Bulky Waste: Items weighing over sixty pounds and any materials over four feet in length, including but not limited to, stoves, refrigerators, water tanks, washing machines, furniture, appliances, bedsprings and mattresses, motor vehicle bodies, dirt, wood, wire, tires, rock, loose branches and large dead animals (over ten pounds).
- (c) Bundle: Small trees, shrub and brush trimmings or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length or thirty-five pounds in weight.
- (d) Business: An individual, partnership, association, corporation, company, trust, firm, estate, joint venture, unit, agent, public agency, industry, or other legal entity operating as a self-contained independent enterprise, such as a beauty shop, retail shop, professional office, etc.
- (e) CFC Appliance: Appliance that contains chlorofluorocarbons.
- (f) Claimant: Person who has filed a claim under tribal solid waste code §13-7-1 (i) for an exemption to fees.
- (g) Collection Unit: A tribal resident and/or agent who generates waste and requires collection and disposal of that waste from a place of residence or place of business located within the reservation boundaries.
 - (1) Residential Unit: A dwelling within the reservation boundaries occupied by a person or group of persons. A residential unit shall be deemed occupied when either occupied or producing solid waste. Each unit within an apartment, condominium or mobile home park dwelling shall be treated as an individual residential unit.
 - (2) Business Unit: Each space occupied by an individual business. A business shall be deemed occupied when either occupied or producing solid waste.
- (h) *inadvertently missed in original*
- (i) Collection Vehicle: A mobile collection vehicle having the capacity sufficient to receive and dispose of all household waste deposited at rural container sites or at individual collection units for disposal at a disposal site.
- (j) Collector: The person holding a license, franchise or contract with the Tribe,

and/or employed by the Tribe and thereby authorized or designated by the Tribe to collect, handle, transport and dispose of solid waste.

(k) Composting: The biological decomposition of organic waste under controlled conditions.

(l) Containers:

(1) Bags: Plastic sacks designed to store solid waste with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of bag and its contents shall not exceed thirty-five pounds for collection services.

(2) Manual Container (Garbage Can): A receptacle with a capacity of greater than twenty gallons, but not more than thirty-six gallons tapered so that it is larger at the top than at the bottom, made of metal, plastic, or fiberglass having a tight fitting lid which completely covers the top to the container, rodent proof and not exceeding sixty pounds of gross loaded weight and having handles of adequate strength for lifting.

(3) Mechanical Container: A receptacle designed for loose solid waste to be lifted by mechanical means so that its contents can be emptied.

(4) Compactor Container: A receptacle designed to compact solid waste and to be moved by mechanical means so that its contents can be emptied.

(m) Disposal: Disposing of solid waste in a disposal site; disposal of solid waste for resource recovery or transportation to another site or facility.

(n) Disposal Site: A waste facility of site where solid waste is disposed of, reduced or recovered, such as sanitary landfills, transfer stations, incinerators and resource recovery facilities which are licensed or approved to receive for processing or final disposal of solid waste by all governmental bodies and agencies having jurisdiction.

(o) Generator: Any person, business or other entity, which produces solid waste within the collection area.

(p) Hazardous Waste: Any chemical, compound, mixture, substance, or article which is designated by the United States Environmental Protection Agency or other appropriate agency of the federal government or State of Idaho, to be "hazardous" as that term is defined by or pursuant to law.

(q) Hazardous Waste, Conditionally Exempt: Small quantities of hazardous waste generated in the household waste stream, acceptable by EPA standards for disposal in MSW landfills because of its quantity, concentration and characteristics.

(r) Hazardous Waste Generator: Any resident of a residential or business unit in the Nez Perce Reservation collection area.

(s) Heavy Waste: Heavy waste and materials resulting from excavations, construction, remodeling, repair or demolition operations, including, but not limited to, rocks,

tree trunks, logs, cement, concrete and sod.

(t) Household Hazardous Waste Day: A periodically designated day for households, conditionally exempt small business generators, farmers, etc., for the proper disposal of hazardous waste.

(u) Household Waste: That waste produced by an ordinary residential unit fitting into a bag, manual container or bundle less than four feet in length. Does not include bulky, infectious or hazardous waste.

(v) Infectious Waste: Any material, chemical, compound, mixture, substance or article known to be infectious by the producer or which is designated by the United States Environmental Protection Agency or other appropriate agency of the federal government to be "infectious" as that term is commonly defined or defined by or pursuant to law.

(w) Landfill: An area of land or excavation in which solid wastes are placed for permanent disposal and that is not a land application unit, surface impoundment, injection well or waste pile.

(x) Landlord: A person or organization that owns and leases apartments, houses, mobile homes, buildings and land to others.

(y) Liquid Waste: Any waste material that is determined to contain free liquids as described in Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods, Method 9095 (EPA Pub. No. SW-846).

(z) Loose Yardage (Overflow): Any solid waste placed beside, in the area of or over the top of a container.

(aa) Mobile Home Park: Two or more mobile homes or trailers located in a confined area and permitted as a mobile home park.

(bb) MSW Waste: Means all putrescible and non-putrescible solid and semisolid wastes, including, but not limited to garbage, rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles or parts thereof and discarded commodities.

(cc) Non-MSW Waste: Means solid waste, largely inert waste, resulting from the demolition or razing of buildings, roads and other man-made structures.

(dd) Parcel: A distinct, contiguous tract of land.

(ee) Premises: Land and all buildings and structures thereon, but not excluding by terms of enumeration, single or multiple family dwellings, rooming houses, apartment houses, hospitals, convalescent and nursing homes, hotels and motels, restaurants, drive-in establishments, schools (kindergartens, academic, trade, or industrial), mobile home parks, and any other place of habitation, office, shop or establishment or place of conducting a business, trade or occupation.

(ff) Producer: Residential unit or business unit as defined herein.

(gg) Putrescible Waste: Solid waste which has the capacity to become rotten or foul.

- (hh) Recycling: The reclamation of solid waste and its subsequent introduction into and industrial process by which the material is transformed into a new product in such a manner that the original identity as a product is lost.
- (ii) Reservation: Nez Perce Reservation located in what is now North Central Idaho.
- (jj) Resident: Every person in possession, charge, custody or control of any premises where solid waste is created or accumulated, whether the property owner or lessee.
- (kk) Resource Recovery: The process, including recycling, of obtaining useful material or energy resources from solid waste.
- (ll) Roadway: That portion of right-of-way or private property adjacent to the traveled portion of the county road or State highway right-of-way used for the placement of all solid waste containers on collection days.
- (mm) Rubbish: Any material thrown away as worthless: trash.
- (nn) Collection System:
- (1) Individual Collection Services: The collection of household solid waste and/or bulky waste, which has been delivered by the generator to a rural container site.
 - (2) Container Service: The collection of household solid waste and/or bulky waste, which has been delivered by the generator to a container site.
 - (3) Special Collection Services: The collection of solid waste services at collection units, which are not located on individual collection routes.
- (oo) Sludge: Semisolid material such as the type precipitated by sewage treatment.
- (pp) Solid Waste: Any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from household, business or 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 point sources subject to permit under federal law, or source, special nuclear, or by-product material as defined in the atomic energy act of 1954, as amended.
- (qq) Transfer Station: A facility or building or location where solid waste is transferred from one container to another for hauling to another location.
- (rr) Tribe: Nez Perce Tribal government.
- (ss) Tribal persons: Person of Native American ancestry.
- (tt) Tribal Solid Waste Fund: Financial fund designated specifically for payment of solid waste collection services on the reservation.
- (uu) Waste Reduction: The diversion of any portion of the waste stream for recycling,

energy recovery, composting, or any other lawful process for the purpose of reducing the volume of the waste stream.

CHAPTER 13-3 SOLID WASTE CONTAINER SITES

§13-3-1 Container Sites

The Tribe shall designate places for the location of mechanical containers for the purpose of the dumping and depositing of its solid waste. Any such place shall be known as a solid waste disposal site.

§13-3-2 Container Site Requirements

At each site designated by the Tribe, there shall be located and maintained mechanical containers, which shall be sufficient in size or number to receive and contain the accumulation of solid waste deposited therein between collection dates.

§13-3-3 Maintenance of Containers

(a) Each disposal site shall be maintained in a clean and sanitary manner by the collector serving said site.

(b) Each tribal person depositing solid waste at such sites shall deposit all such waste in the containers provided therefor and shall be responsible for cleaning up any spillage and/or any loose yardage (overflow) of waste caused by such person at such sites.

§13-3-4 Container System Collection Schedule

The Tribe and the service contractor(s) shall establish regular container collection schedules for the collection, transportation and disposal of solid waste accumulated therein. Such schedules shall be sufficiently frequent to prevent the unlawful accumulation of solid waste.

§13-3-5 Limitation of Use of Container Sites

(a) No tribal persons shall deposit industrial waste, hazardous material or any waste materials that are not from their own sources on the reservation at the container sites, except that such wastes that may be disposed of at the container sites which have been specifically designated for that purpose. Failure to follow the guidelines of this section could result in the loss of solid waste container site privileges.

(b) No tribal persons owning or occupying premises on and/or off the Reservation shall deposit any solid waste from such premises at a container sites unless they have an active and current solid waste account that financially supports the solid waste management system that the container site they are using is part of.

(c) Tribal employees may not use tribal government solid waste containers for the disposal of waste materials generated from non-governmental sources such as their home or business.

CHAPTER 13-4 SOLID WASTE COLLECTION SYSTEM**§13-4-1 Collection of Solid Waste**

- (a) There is hereby established a system for the collection of solid waste from Tribal interests.
- (b) The Tribe and the service contractor(s) may establish regular collection schedules for the collection, transportation and disposal of solid waste from all Tribal premises on the Reservation, provided that the owners/occupiers of such premises comply with the provisions of this Ordinance and all rules and regulations adopted by the Tribe.
- (c) It shall be the duty of the persons served by the collector at all times to keep, or cause to be kept, containers, as defined herein, and to deposit or cause to be deposited therein all solid waste, except as otherwise herein provided.
- (d) All containers shall be (1) equipped with close-fitting covers, or (2) securely tied, or (3) otherwise closed to prevent the contents from being blown by the wind, scattered by animals, or otherwise littered.
- (e) Solid waste or recyclable materials shall not be compacted in a container to the extent of obstructing free and easy removal from the container.
- (f) All tribal persons shall restrain their animals from spreading solid waste or recyclable materials left for collection or from interfering with pick-up personnel during collection. Owners of animals shall be held responsible for any clean-up required from the actions of their animals. For more information please see Nez Perce Tribe Dog Ordinance, Nez Perce Tribal Codes, Chapter 6-8.
- (g) All solid waste, before being placed or deposited in sanitary containers for collection, shall have been drained from it all free liquids and may be wrapped and placed in paper or plastic bags.
- (h) Tree trimmings, hedge clippings and similar materials shall be cut to a length not to exceed four feet or thirty -five pounds in weight before being deposited for collection where applicable.
- (i) Grass Clippings, leaves, and garden debris, except sod, soil, and rocks, may not be placed in plastic bags, cardboard boxes or any other container when deposited in a designated yard waste bin at a container site.
- (j) At premises wherein large accumulations of solid waste occur, the resident or owner of such premises may place bags in mechanical containers, provided either by such person or the collector. All such containers shall be watertight, cleaned on a regular basis, closed at all times and so constructed as to have lids or covers easily managed and operated.

§13-4-2 Placement of Containers for Driveway to Driveway And/or Alley Collection Services

- (a) All containers shall be placed for collection outside of all buildings and shall be placed as close as reasonably possible to public street curb or alley travel way without obstructing traffic, parking areas or pedestrian travel. When construction work is being

performed in the right-of-way, containers, bags or bundles shall be placed as close as possible to an access point for the collection vehicle.

(b) All containers shall be replaced, upright where found, with lids on them. Containers and lids shall not be placed or thrown on streets, alleys, highways, or on adjoining property. The collector shall not permit receptacles to be thrown from the truck to the pavement or parkway nor in any other way permit damage to occur by rough or improper handling thereof. Private property, public streets, alleys, or ways about the containers and the collection truck shall be the responsibility of the collector to keep clean, and the collector shall be responsible for the removal of such spillage, but shall not be responsible for cleaning up conditions created by the residents around such containers.

(c) If containers are stored in unlocked, fenced yards, such containers will be collected only if the containers are clearly visible to the collector and not in excess of ten feet from the side of the street or alley from which collection is made. The producer may contract with the collector for carry out collection services for other locations upon payment of additional fees as determined by mutual agreement with the collector.

(d) If there is an animal which appears to be unfriendly within a fenced area, the collector shall not be required to enter the area, and the resident or owner shall place the container outside the fence, clearly visible to the collector and not in excess of ten feet from the side of the street or alley from which collection is made.

(e) At other than commercial and alley pickup, all containers shall be removed from public ways within

CHAPTER 13-5 LANDFILLS AND OTHER SOLID WASTE DISPOSAL FACILITIES/OPTIONS

§13-5-1 Designated Landfills, Inert and Municipal

(a) For the protection and preservation of the safety, health and general welfare of the tribal inhabitants of the reservation, all waste materials from tribal sources shall be sent to designated landfills.

(b) Designated landfills must be maintained and operated in accordance with applicable Federal landfill siting criteria, state code and local laws.

§13-5-2 Land Spreading Disposal and Storage Pile

Seasonal or temporary storage of agricultural or other solid wastes in piles can be an acceptable practice provided that the pile is adequately protected from surface run off, appropriate measures are taken to prevent odors, control vermin, illegal access and insects, and other measures are taken as may be specified by the Tribe.

§13-5-3 Junkyard/Auto Wrecking/Salvage Yard

(a) Any open area, lot, land, or parcel where waste and scrap material are bought, sold, exchanged, stored, baled, packed, disassembled, handled, stripped, or dumped, and also including more than two (2) motor vehicles not currently licensed and/or in running condition or parts thereof for every 90' x 100' (9,000 square feet) of property area up to a maximum of five (5) inoperable vehicles or parts thereof is considered a junkyard/auto wrecking/salvage yard.

(b) A permit for the siting of a new and/or operation of an existing junkyard/auto wrecking/salvage yard must be obtained by the landowner(s) from the Tribe. Permit approval or denial shall be at the sole discretion of the Nez Perce Tribal Executive Committee.

(c) Consideration for a new and/or operation of an existing junkyard/auto wrecking/salvage yard permit may be obtained by making a written request directly to the Nez Perce Tribal Executive Committee.

§13-5-4 Burning

The burning of natural material is the only burning allowed on the reservation. A permit must be obtained from the appropriate Forest Protection District and the Tribal Air Quality program (FARR). It is unlawful for any person to burn the following materials in the open: garbage, wastes at mills, demolition debris, oil, grease or asphalt, railroad ties, plastics, junk motor vehicles, telephone poles, asphalt materials, commercial or industrial waste, and rubber materials. For more information on open burning on the Nez Perce Reservation please contact the Nez Perce Tribe Air Quality Department at 208-843-9381.

§13-5-5 Other Facilities

Other solid waste facilities, including transfer stations, container sites, incinerators, commercial or community composting facilities, recycling, processing or other designated treatment facilities for tribal wastes must meet applicable regulations promulgated by the federal government, state, North Central Health District, and the County.

CHAPTER 13-6 ACCUMULATION OF SOLID WASTE AND OTHER ISSUES

§13-6-1 Unlawful Accumulation of Solid Waste

It shall be unlawful for any tribal person to accumulate or to permit or to cause the accumulation in or about any premises or upon any road, street, alley, or public way adjacent to such premises owned or occupied by such tribal person, any solid waste in any amount or that will contribute to or result in danger to public health, or the creation or existence of a nuisance or safety hazard, or the pollution of water or air or excessive land abuse. Please see the public nuisance section (4-3-51, 4-3-9 and 4-2-76) of the Nez Perce Tribal Code for more information on the tribe's policy and practices on "Nuisance Abatement".

§13-6-2 Accumulation of Garbage (Putrescible Waste)

(a) All garbage shall at all times be kept in a watertight sanitary container which is not easily corrodible and is rodent and fly proof. Sanitary containers may include any of the following:

- (1) Metal, plastic or fiberglass receptacles.
- (2) Disposable bags with gauge of not less than one and five-tenths mills.

(b) It shall be the duty of the tribal person or owner of any premises at all times to keep, or cause to be kept, containers, as defined above, and to deposit or cause to be deposited therein all garbage.

(c) All containers shall be (1) equipped with close fitting covers, or (2) securely tied, or (3) otherwise closed to prevent the contents from being blown by the wind, scattered by

animals or otherwise littered.

(d) All containers shall be kept in a reasonably clean condition with the inside and outside thereof washed at such times as to keep the same free and clean of accumulating grease and decomposing material.

§13-6-3 Accumulation of Other Solid Waste

(a) All household waste shall at all times be kept in sanitary containers or other containers.

(b) Such containers shall have lids and shall be maintained in a clean and sanitary condition.

(c) Household Waste consisting only of cardboard, or wooden boxes, brush, leaves, weeds, and cuttings from trees, lawns, shrubs, and gardens, may be kept separately, provided that the same shall not be subject to being blown by the wind or otherwise littered and provided further that the same shall not cause or create an offensive odor, or a rodent harborage, or a public nuisance.

§13-6-4 Hazardous Materials

The collector shall not collect or transport hazardous or infectious materials, as defined herein, to the disposal site, except as provided herein. All requests for collection of such materials shall be referred directly to a collector, who shall obtain such permits and licenses for such transportation, collection and disposal as may be required by law. Certain hazardous wastes may be disposed of during a Household Hazardous Waste Collection day(s), when such day(s) are announced by the Tribe.

§13-6-5 Recycling, Composting, and Waste Reduction

(a) The Tribe reserves the right to, and may at its option, provide for a voluntary collection system for recyclables, which may include the separation of recyclables from other solid waste and require the deposit thereof in separate containers. The Tribe may also issue further regulations for the placement and disposal of recyclables materials.

(b) The hauling of recyclables in or out of the Nez Perce Reservation is permissible provided that the same shall not be subject to being blown by the wind or otherwise littered and provided further that the same shall not cause an offensive odor, a rodent harborage or a nuisance.

(c) Green waste materials collected at the Nez Perce Tribe/City of Lapwai solid waste container site shall be composted by the Tribe or a designated contractor.

(d) Composted green waste materials from the Lapwai container site may be mixed with sewer sludge, animal manure, sawdust or other materials, as necessary.

(e) Private, or individual, household composting is acceptable and encouraged on private property provided that the same shall not cause an offensive odor, a rodent harborage or a public nuisance.

(f) Waste reduction: Maximum reduction of the volume of the waste stream is encouraged by the Tribe provided that the portion of the waste stream being diverted shall not be subject to being blown by the wind or otherwise littered and provided further that the same shall not cause an offensive odor, a rodent harborage or a public nuisance.

§13-6-6 Animal and Game Waste

Animal and game waste from tribal sources on the reservation is not classified as MSW waste by the Tribe. Unused animal parts should be returned to nature in a location that does not bother (sight or smell) others.

§13-6-7 Junk Cars And/or Abandoned Vehicles

(a) No more than two (2) junk cars are allowed per every 90' x 100' (9,000 square feet) lot area up to a maximum of ten (10).

(b) Unused vehicles interiors and trunks must be inaccessible to unauthorized persons at all times. Vehicles whose interiors and trunks that cannot be made inaccessible must be removed immediately.

(c) Vehicles must not be allowed to become dilapidated looking or storage sites for other waste items.

(d) Vehicles may not be left or abandon in the public right-of -way or on tribal and/or private property.

(e) Vehicles found to be abandoned or in violation of these ordinances may be removed by tribal government or the land owner.

§13-6-8 Street Sanitation (Cleaning)

(a) Streets and roads under the responsibility of the Tribe shall be kept clean and free of mud, dirt, gravel, weeds, grass, volunteer vegetation, dead animals, grain, sawdust, hay, litter, wood, bags of garbage, tire parts, excessive snow build up, ice or any other items that would inhibit/impact the collection of solid waste.

(b) Tribal vehicles and tires with extensive accumulations of mud and dirt will be washed as soon as practically possible after such accumulations.

(c) Equipment necessary for proper street cleaning and maintenance should be obtained and maintained by the Tribe.

§13-6-9 Waste Tire Disposal

(a) The Tribe finds that the accumulation of large amounts of waste tires constitutes a hazard to property, the environment and the health of the citizens of the reservation area. The open incineration of waste tires is prohibited except as permitted by law (FARR). No person shall store or dispose of waste tires except at a solid waste transfer station or authorized solid waste disposal site or by another approved method as follows:

- (1) Retreading.

- (2) Construction of Collision barriers.
- (3) Soil Erosion Control.
- (4) Chopping or shredding prior to reuse.
- (5) Grinding for use in asphalt or as a raw material for other products.
- (6) Using as playground equipment.
- (7) Incinerating for use as fuel, if permitted by law.
- (8) Hauling to lawful out-of-state collection or processing sites.

(b) The Tribe may authorize other methods of management and/or disposal and end-uses of waste tires.

§13-6-10 Enforcement

(a) Enforcement of the provisions of this Article pertaining to waste tire facilities shall be provided by the Tribe.

(b) Enforcement of all other provisions of this ordinance shall be the responsibility of the Tribe.

§13-6-11 Illegal Tire Piles

(a) Owners of property on which unapproved or unauthorized tire piles are located shall dispose of the waste tires by an approved method upon notification by the Tribe. This requirement shall apply to all illegal tire piles which exist as of the date of passage of this ordinance or which may thereafter come into existence. The clean-up of said sites shall be accomplished at the property owner's expense within the time frame established by the Tribe.

(b) Temporary registration of all tire piles containing from 1,000 to 5,000 tires with the Tribe is required. Any tribal person or business owning a tire pile within these limits must register and state the long-term plans for the pile.

(c) In order to obtain temporary registered status, the owner must provide a statement of the property owner's long-term plans for the tire pile and end-use of the waste tires. The property owner must comply with the current edition of the Uniform Fire Code and conditions supporting the increase in numbers and attraction of potential vectors of disease shall not be permitted.

(d) Owners of property where registered tire piles are located shall limit access to these tire piles to prevent further disposal of tires or other wastes.

CHAPTER 13-7 FUNDING OF MAINTENANCE AND OPERATION

§13-7-1 Solid Waste Accounts

- (a) All tribally owned/controlled facilities, parcels, home sites, churches, and

businesses within the reservation boundaries are required to have and maintain in good standings a solid waste disposal account.

(b) Accounts must be for the full annual funding of proper solid waste disposal collection, transportation, temporary storage and final disposal of all annually produced solid waste materials.

(c) Account may be with a local service provider, county government, city government, tribal government or any combination thereof.

(d) Proof of account and good standing must be provided upon request from the Tribe.

(e) All fees collected by the Tribe in the name of solid waste disposal must be used for the maintenance and operation of the solid waste collection system that services the entity or individual that the fee was collected from.

(f) The amount of the fees shall be determined by the Tribe. Fees will be directly related to the actual cost of services and fee collection. Payment of said fees may be made annually, quarterly or monthly by arrangement with the Tribe.

(g) All fees collected shall be placed in a special fund to be known as the Tribal Solid Waste Fund. Solid waste expenses will be paid there from so long as funds are available therein. Any funds from fees collected for solid waste service remaining therein at the end of each fiscal year shall be retained in the Solid Waste Fund.

(h) Tribal members/businesses whose solid waste account is more than two (2) months in arrears may be required to complete a consumer credit counseling course.

(i) The Tribe shall have authority to grant exemptions to persons who apply therefor, exempting such persons from payment of all or a part of the fees imposed to fund the maintenance and operation of the system(s), upon satisfactory proof that, because of unusual circumstances (hardship) which affect their ability to pay. Such persons may be relieved from paying such fees in order to avoid undue hardship, which undue hardship must be determined by the Tribe. Such exemption shall be for the current fee month/year only and premises exempt hereunder shall be billed and assessed for the ensuing fee months/years as other premises. Claimants seeking exemption under this provision must apply each month/year directly to the Tribe. The Tribe shall have authority to grant exemptions permits to persons who apply therefor, exempting such persons from payment of all or a part of the fees imposed to fund the maintenance and operation of the system upon satisfactory proof that because of unusual circumstances, such persons do not create or accumulate solid waste upon the premises. Such exemption shall be for the current fee month/year only and premises exempt hereunder shall be billed and assessed for the ensuing fee months/years as other premises. Claimants seeking exemption under this provision must apply each month/year. The criteria for such exemptions shall be established by resolution of the Tribe. Exemptions are for accounts held with tribal government only.

The following are the criteria for solid waste fee exemptions and adjustments:

- (1) **Hardship:** Limited applications are available for hardship exemptions. These will be granted at the sole discretion of the Tribe.

- (2) **Circuit Breaker:** A sliding scale will be used for adjustment of fees for persons qualifying for the Circuit Breaker Property Tax Exemption comparable to that as set forth by the Tribe. Said scale will be established by the Tribe in SECTION 7.3 of this Code.
- (3) **Non-livable:** Home may have no sewer, water and/or electricity and must be vacant for at least the current solid waste fee period. Verification by the Tribe will be required. No building permit requested in the last six months.
- (4) **Vacant but Livable:** Requests must be made in writing and a solid waste exemption form must be completed. The Tribe may or may not grant the exemption and if it is denied you may appeal the exemption with the Nez Perce Tribal Executive Committee. The home must be vacant for at least three months.
- (5) **Gone from Property:** Home has been moved, burned or destroyed. Verification by the Tribe will be required.
- (6) **As General Policy: No Refunds Will Be Granted.** Any exceptions to this policy will be at the sole discretion of the Tribe. Operations and maintenance annual funding reductions from granted fee exemptions for financial hardship or circuit breaker will be reallocated through the Tribe.

§13-7-2 Qualifications for Circuit Breaker Program

- (a) Over the age of sixty-five (65) years old at the time of application; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandon by any surviving parent or parents; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administer by the United States department of Veterans Affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because they are known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

§13-7-3 Sliding Scale for Circuit Breaker Program

Lower Income Amount	Higher Income Amount	Percent Reduction
\$0	\$11,270	50%
\$11,271	\$15,080	25%

§13-7-4 Billing Procedures

(a) All tribal persons of the Nez Perce Reservation are required to pay solid waste fees, except those granted exemption therefrom pursuant to the criteria set forth in the preceding section. Failure to timely pay such fees may result in discontinuance of collection services until such fees are paid, at the discretion of the Tribe.

(b) Tribal members who do not have an active and current account with a local service provider will be billed by the Tribe and the funds distributed to the affected parties local service provider.

(c) A service fee may be added to each billing that is based upon the actual cost to the Tribe for billing activities.

(d) Late fees may be added to billings each month if delinquent 30 days or longer. Delinquent fees shall include all associated costs such as certified mailing costs.

(e) Tribal members whose solid waste accounts are more than two (2) months in arrears may be required to complete a consumer credit counseling course.

CHAPTER 13-8 CONTRACTS, MEMORANDUM OF AGREEMENTS, SEVERABILITY, ENFORCEMENT, AND EFFECTIVE DATE**§13-8-1 Contract Authorization**

(a) The Tribe may contract for the collection, removal and disposal of solid waste and recyclable materials, the operations and maintenance of Tribal container sites, designated landfill sites or any combination thereof. No contract shall exceed ten years' duration.

(b) The Tribe may contract with cities on the reservation for the purpose of establishing a solid waste collection and/or disposal system hereby established or any combination of the same.

(c) An MOA exists between the Tribe and Clearwater County that addresses the billing of Tribal members and facilities in Clearwater County. The MOA outlines Tribal role in Clearwater County in ensuring that Tribal facilities have an active and current solid waste account and that the Tribe will help to educate Tribal persons who live in Clearwater County that the billings for solid waste from the County are a fee for service and not a property tax.

(d) An MOA exists between the Tribe and the City of Lapwai for the joint operations of the Lapwai Valley solid waste container site. Contractual costs associated with this MOA are allocated to each participating party based upon the current estimated number of residential units each entity is responsible for and what percent of each residents weekly solid waste is disposed of through the container site facility. At this time the percentage allocation is 60% Tribe and 40% City. This percentage allocation is based upon there being approximately 506 residential units in the Lapwai valley area utilizing the container sites services and the Tribe being

responsible for 198 (98 who use the site on a part-time basis and 100 on a full-time basis) and the City of Lapwai being responsible for 308 residential units who use the site on a part-time basis only. Percentage may be adjusted up or down depending upon changes in the number of residential units each entity is responsible for and/or percentage weekly use of the container site.

§13-8-2 Severability

Should any section, subsection, paragraph, sentence, or clause of this Ordinance be held, for any reason, by a court of competent jurisdiction to be invalid, the remainder of this Ordinance shall be deemed severable and valid, notwithstanding such partial invalidity.

§13-8-3 Violation of Ordinance

Violation of any provision of this Ordinance shall be a misdemeanor, punishable by a fine of not more than \$300.00 or imprisonment in jail for not more than six months, or both such fine and imprisonment, in addition to restitution for the costs of recovery and proper disposal of any wastes unlawfully disposed of. Community Service shall be the preferred alternative punishment, in lieu of incarceration, for first offenders. Repeat offenders may be prohibited from using the solid waste collection site(s). A continuing violation of any such provision is hereby declared to be a public nuisance. Tribe reserves the right to bring an action in Tribal court enjoin any acts or practices prohibited by this ordinance and to enforce compliance with this ordinance, pursuant to Tribal Code or its successor.