



# BLACKFEET NATION

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**EXECUTIVE COMMITTEE**  
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Iliff "Scott" Kipp, Sr.  
Marvin Weatherwax, Jr.

**Approving the Second Amendment to Ordinance #105 Banning Plastic Bags Issued by Retailers for Patrons for Purchased Goods on the Blackfeet Reservation; and, Updating and Codifying Ordinance #105 as the Blackfeet Solid Waste Code, Chapter 21 in the Blackfeet Law and Order Code**

No. 293-2023

**WHEREAS,** The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Nation pursuant to Section 16 of Act of June 18, 1934 and Amendments thereof, and

**WHEREAS,** The Blackfeet Tribal Business Council has been organized to represent, develop, protect and advance the views, interests, and resources education and resources of the Blackfeet Indian Reservation, and

**WHEREAS,** Pursuant to the Blackfeet Tribal Constitution and Bylaws, Article VI, Section 1(k), the Blackfeet Tribal Business Council is empowered to promulgate ordinances for the purposes of safeguarding the peace and safety of residents of the Blackfeet Indian Reservation, and

**WHEREAS,** The Blackfeet Tribal Business Council approved the "Blackfeet Solid Waste Ordinance #105" pursuant to Resolution No. 414-2009 on August 6, 2009; and the first amendment to Ordinance #105 pursuant to Resolution No. 186-2012 on May 10, 2012 regarding waste from oil and gas exploration and production, and

**WHEREAS,** The Blackfeet Tribal Business Council has determined that there is a need to ban plastic bags on the Blackfeet Reservation based upon such waste becoming overwhelming to the reservation, to which the Blackfeet Tribal Business Council approved the ban by retailers on the Blackfeet Reservation from issuing plastic bags to their patrons on September 26, 2022, with a notice period of sixty (60) days, and

**WHEREAS,** The Blackfeet Tribal Business Council further discussed the need to update the the junk vehicle ordinance within the Blackfeet Solid Waste Ordinance to provide for uniformity in other penalties through and administrative process, and

**WHEREAS,** The Blackfeet Tribal Business Council was advised by the Legal Department and the Director of the Blackfeet Environmental Office of the need to remove the layer of administrative authority to the Solid Waste Committee, which has not been functional for many years; to provide for a violation of the plastic bag violation, and to codify the Blackfeet Solid Waste Ordinance #105 in the Blackfeet Law and Order Code during a special session on October 19, 2022, and

**WHEREAS,** The Blackfeet Tribal Business Council further discussed the need to provide a budget in the amount of \$5,000.00 to the Blackfeet Environmental Office to produce reusable bags to be issued to the retailers to promote use by patrons, and

**WHEREAS,** The Blackfeet Legal Department met with the Blackfeet Environmental Office to review the new Solid Waste Code draft in December of 2022, to which the update is ready for approval, and

**WHEREAS,** The Blackfeet Tribal Business Council desires to approve all the amendments to Ordinance #105, discussed at the Special Sessions-September 26, 2022 and October 19, 2022, and from further discussions with the Blackfeet Environmental Office and the Blackfeet Legal Department to be codified in the Blackfeet Law and Order Code at Chapter 21, as the Blackfeet Solid Waste Code, now

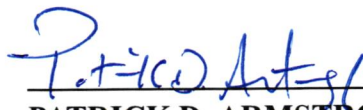
**THEREFORE, BE IT RESOLVED:**

1. The Blackfeet Tribal Business Council hereby approves the final version of the Blackfeet Solid Waste Code, (Second Amendment to Ordinance #105) to be now entitled as “***Blackfeet Solid Waste Code (2023)***” attached hereto and incorporated into this Resolution by this reference, to be codified at Chapter 21 of the Blackfeet Law and Order Code.
2. All previous Resolutions and Ordinances are hereby repealed and replaced by the Blackfeet Solid Waste Code as adopted by this Resolution.
3. The Blackfeet Tribal Business Council hereby bans the issuance of plastic bags by retailers to their patrons used for purchased goods from such retailers on the Blackfeet Reservation (with the exception of bags utilized for carrying produce), to which such ban shall be listed as violation in the Blackfeet Solid Waste Code.
4. The Blackfeet Tribal Business Council hereby provides a grace period of sixty (60) days from the date this Resolution is officially published in local media, to allow all retailers on the Blackfeet Reservation to come into compliance by eliminating plastic bags used for the issuance to patrons of the retailers. The end date of the grace period shall be published in the local media.

5. The Blackfeet Tribal Treasurer shall allocate \$5,000.00 to the Blackfeet Environmental Office to produce reusable bags to be issued to retailers on the Blackfeet Reservation for repurchase by patrons, to encourage reusable bags for consumer goods.
6. The Blackfeet Tribal Business Council-Cultural Committee shall provide a logo contest for the reusable bags.
7. A copy of this Resolution shall be provided to the Blackfeet Revenue Department for notice to the public.
8. The Chairman or the Vice-Chairman in the Chairman's absence and the Secretary of the Blackfeet Tribal Business Council are hereby authorized to sign this Resolution and any other documents to effectuate the purposes of this Resolution.

ATTEST:

**THE BLACKFEET TRIBE OF THE  
BLACKFEET INDIAN RESERVATION**


  
\_\_\_\_\_  
**PATRICK D. ARMSTRONG, JR.**  
Secretary

  
\_\_\_\_\_  
**ILIFF "SCOTT" KIPP, SR.**  
Chairman

**CERTIFICATION**

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Business Council in a duly called noticed and convened General Session assembled for business the 2nd day of March, 2023 with Seven (7) members present to constitute a quorum and by a vote of Seven (7) For, Zero (0) Opposed and Zero (0) Abstained.

(SEAL)

  
\_\_\_\_\_  
**PATRICK D. ARMSTRONG, JR., Secretary**  
**Blackfeet Tribal Business Council**

# BLACKFEET SOLID WASTE CODE

## CHAPTER 21

MARCH 2, 2023 RESOLUTION No. \_\_\_\_\_

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## PART I. SHORT TITLE, FINDINGS AND PURPOSE

### Section 1.     Short Title

This Code shall be cited as the “Blackfeet Solid Waste Code” for the Blackfeet Reservation.

### Section 2.     Definitions

“**Administrator**” means the Blackfeet Environmental Office or the Director of the Blackfeet Environmental Office.

“**Applicant**” means any person who has filed an application with the Solid Waste Program for approval to store, collect, transport or dispose of solid waste on the Blackfeet Reservation.

“**Aquifer**” means any subsurface geologic formation capable of yielding a significant amount of recoverable or potentially recoverable water.

“**Authorized Facility**” means a waste management, storage transfer or disposal site or facility which meets the requirements of applicable Tribal, federal, or state regulations and is approved by the Blackfeet Environmental Office as the place for such management or disposal of waste covered by this Code.

“**Beneficial Uses**” means all lawful uses of waters identified in water quality standards. Uses may include but are not limited to domestic, commercial, industrial, agricultural, traditional, cultural and recreational uses, and uses to maintain fish and wildlife habitats for propagation practices.

“**Blackfeet Environmental Office**” or “**BEO**” is the department of the Blackfeet Nation, designated to administer this Code.

“**Blackfeet Integrated Solid Waste Management Plan**” means the most recently adopted *Blackfeet Integrated Solid Waste Management Plan* (BISWMP) which is comprised of Tribal Policies for all solid waste collection, handling, transportation, disposal, treatment, storage, recycling, and resource conservation on or off the Blackfeet Reservation.

“**Closure**” means the completion of the receiving, handling, recycling, treatment, composting or disposal of solid waste activities at a solid waste facility, and includes all operations necessary to prepare the facility for post-closure maintenance.

“**Collection**” means the act of collecting, pursuant to the Resource Conservation and Recovery act of 1976, solid waste or hazardous waste by an approved collection agent or facility.

“**Composting**” means the controlled microbial degradation of organic solid waste yielding a safe and nuisance free product.

“**Construction**” means the erection or building of new structures or the acquisition, replacement, expansion, remodeling, alteration, modernization or extension of existing structures.

“**Council or Tribal Council**” means the Blackfeet Tribal Business Council.

**“Discharge”** means the accidental or intentional spillings, leaking, pumping, pouring, emitting, emptying, injecting or dumping of waste or hazardous substance into or on any land or water.

**“Designated Use”** means a use that is specified in water quality standards as a goal for a water body segment, irrespective of whether such goal has been attained.

**“Disposal”** means the discharge, abandonment, deposit, injection, dumping, spilling, leaking or placing of any solid waste or hazardous waste into or on any soil, air or water, irrespective of whether such disposal is in accordance with this Code.

**“Disposal Facility”** means a facility permitted to receive and dispose of solid waste and includes all contiguous land and structures, and 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. The term “disposal facility” may be used interchangeably with the term “*Municipal Solid Waste Landfill Unit (MSWLF)*”.

**“Energy Recovery”** means the production of energy or energy resources from the handling or disposal of solid waste.

**“Handling”** means Collection, transportation, storage, transfer or processing of solid waste or hazardous waste.

**“Hazardous Materials”** means (1) any substance that poses a threat to human health, wildlife, domestic animals or the environment. Typical hazardous substances are toxic, corrosive, ignitable, explosive or chemically reactive. (2) Any substance that is flammable or combustible such as vehicle fluids including oil, gas, antifreeze, freon or other toxic liquids including petroleum by-products. (3) Any substance that is hazardous, toxic, ignitable, reactive or corrosive and that is defined as hazardous by the Blackfeet Nation, *Montana Department of Environmental Quality (MDEQ)* or the Environmental Protection Agency.

**“Hazardous Waste”** means any substance that is defined or specifically listed hazardous by the *Resource Conservation and Recovery Act of 1976*, as amended from time to time, and by any regulations promulgated thereunder. This shall also mean liquid used in the process of hydraulic fracturing (“fracking”), which is the method of blasting pressurized water, industrial activities, and sand down a well in order to release oil, natural gas (including shale gas, tight gas and coal seam gas), or other substances for extraction from the geological formation deep underground.

**“Historical Uses”** means all uses that have historic, cultural, or traditional significance for the Blackfeet Nation.

**“Impervious Barrier”** means any material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the underlying surface.

**“Implementation Schedule”** means a schedule that indicates approximate dates for the orderly, timely implementation of the *BISWMP’S* policies and programs and includes approximate dates for the establishment, expansion and closure of any solid waste facility identified.

**“Junk”** means discarded material that may be used in some form, but which in its present form, has no immediate use or value to any person.

**“Junk Vehicle”** means any motor vehicle without current registered license plate and the condition of the vehicle is wrecked, junked, dismantled, or partially dismantled, inoperative, abandoned or discarded including parts thereof, and which is not being used for its manufactured intended purpose.

**“Junk Yard”** means a lot or yard to store junk.

**“Member”** means an enrolled person of the Blackfeet Tribe as defined set forth by *Article II, Membership of the Blackfeet Tribal Constitution and Bylaws, 1935, as amended*.

**“Mitigation”** means a measure taken to reduce adverse impacts on the environment.

**“Municipal Solid Waste Landfill Unit” or “MSWLF”** means a discrete area of land or an excavation that receives household waste and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under *40 CFR 257*. An *MSWLF* unit also may receive wastes authorized under the *Solid Waste Disposal Act, Resource Conservation and Recovery Act*, and their subsequent amendments. An *MSWLF* may be publicly or privately owned. An *MSWLF* unit may be a new unit, an existing unit or a lateral expansion which is the horizontal expansion of the waste boundary of an existing unit.

**“Motor Vehicle”** means a vehicle propelled by its own power and designed primarily to transport persons or property upon any road or trail way within the Blackfeet Reservation.

**“Negligent”** is the failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

**“Non-Member”** means any person who is not an enrolled member of the Blackfeet Tribe and shall include those persons who are non-Indians.

**“Open Dump/Illegal 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 the standards found in this Code, Tribal regulations and/or *40 CFR 257 or 258* and irrespective of whether the facility or site has been issued a permit.

**“Operator”** means the person whom the approval to construct and/or operate a solid waste facility or collection system is granted. The term shall also include any person who constructs or operates a solid waste facility in violation of this Code.

**“Permit”** means any authorization, license or equivalent control document issued by Blackfeet Environmental Office regulating the siting, design, construction, operation, monitoring, corrective actions, closure, post-closure maintenance and financial assurance of solid waste facilities.

**“Permittee”** means a person, including but not limited to an operation, authorized and permitted to construct and/or operate a solid waste facility under this Code.



**“Person(s)”** means any individual, corporation, partnership, association, agency, municipality, commission or department, including the Blackfeet Nation or other federally recognized Tribal government. The term shall also include any relevant town, city, county or state entity and any school.

**“Pollutant”** means any substance that will adversely alter the quality of the waters, lands and air of the Blackfeet Indian Reservation.

**“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.

**“Post-Closure Maintenance”** means all activities undertaken at a closed solid waste facility to maintain the integrity of containment features and to monitor compliance with applicable performance standards.

**“Potential Uses”** means all uses attainable in the water bodies, soil and air of the Blackfeet Indian Reservation, irrespective of whether the uses are explicitly stated as designated uses in the water or other quality standards or are presently potential uses.

**“Processing”** means the reduction, separation, compaction, recovery, treatment, transportation or recycling of solid waste or hazardous waste.

**“Promulgate”** means to formally make public, make known, or put into effect.

**“Quality of Water or Waters”** means any chemical, physical, biological, bacteriological, radiological and other properties and characteristics of water that affect its use.

**“Recoverable”** means the feasibility and likelihood of waste or byproduct being recovered from solid waste for a commercial or industrial use.

**“Recovered Material”** means material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from and commonly reused within an original manufacturing process.

**“Recycling”** means the process of sorting, cleansing, treating and reconstituting solid waste or other discarded materials in order to prepare the altered form for use.

**“Remediate”** means to abate, contain, or remove hazardous substances from the environment.

**“Removal”** means the act of taking solid waste or hazardous waste from the place of generation.

**“Reservation”** means all land, air, and water located within the exterior boundaries of the Blackfeet Reservation and includes the subsurface estate underlying the Blackfeet Reservation.

**“Resource Recovery System”** means a solid waste management system that provides for collection, separation, recycling and recovering of solid waste, including disposal of non-recoverable waste residue.

**“Riparian”** refers to land on banks of a body of water, such as a lake, river or stream.

**“Salvage Yard”** means a facility or location for the dismantling or wrecking of motor vehicles, trailers or the storage, sale or dumping of dismantled or partially dismantled obsolete, or wrecked vehicles or their parts or any establishment or place of business which is maintained or used for the storage, keeping, buying or selling of wrecked, scrapped, dismantled motor vehicles or motor vehicle parts. The presence on any lot or parcel of land of four or more motor vehicles, which for a period exceeding ten (10) days, have not been capable of operating under their own power and/or parts from which parts have been removed for reuse or sale.

**“Sanitary Landfill”** means a disposal facility employing a method of disposing of solid waste on land, without creating nuisances or hazards to public health or safety, by using methods to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of suitable cover material at specific designated intervals.

**“Solid Waste”** means all solid, semisolid, and liquid waste, including but not limited to garbage, junk, trash, refuse, paper, rubbish, ashes, industrial waste, construction and demolition waste, abandoned or junk vehicles and parts thereof, discarded home and industrial appliances, manure, 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; but not including hazardous waste, solid or dissolved material in domestic sewage, solid or dissolved material in irrigation return flows, industrial discharges that are point sources subject to permits under *33 U.S.C.A. §1342*, or source, special nuclear, or byproduct material as defined by *the Atomic Energy Act of 1954, as amended 42, U.S.C.A. §§2011, et seq.*

**“Solid Waste Facility”** means a disposal facility; a transfer/processing station; a recycling facility; a composting facility; any resource recovery system or component thereof; any system, program or facility for resource conservation; and any facility used for the handling, treatment, composting or disposal of solid waste; whether such facility is associated with facilities generating such solid waste or otherwise; and includes all contiguous land and structures, other appurtenances and improvements on the land.

**“Solid Waste Management”** means a planned program for effectively controlling the generation, handling, treatment, composting and disposal of solid waste in a safe, sanitary, aesthetically acceptable and environmentally sound manner.

**“SWDA”** means the *Federal Solid Waste Disposal Act*, as amended by the *Resource Conservation and Recovery Act of 1976 “RCRA”* and the *1984 Hazardous and Solid Waste Amendments (“HSWA”)* to *RCRA*, and more particularly, subchapter IV- State or Regional Solid Waste Plans, *SWDA §§ 4001-4010, 42 U.S.C.A §§6941-6949(a)*, which requires that the EPA promulgate criteria for Municipal Solid Waste Landfill Units (*MSWLF’s*) and which prohibits disposal of solid waste at landfills which do not satisfy such criteria. The *40 CFR Part 258*

regulations contain the criteria for *MSWLF's*, which became generally effective on October 9, 1993, although there are other effective dates under *40 CFR Part 258*.

**“Solid Waste Program”** means program and/or office as designated by the Blackfeet Environmental Office and all authorities, activities and procedures under this Code, the Tribe’s Solid Waste Management Plan and 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 Criteria for MSWLF’s.

**“Toxic Materials”** means any chemical or mixture that presents a 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. Transfer/Processing Station does not include:

- A. A Facility the principal function of which is to receive, handle, process, treat or compost manure;
- B. A facility the principal function of which is to receive or handle solid waste that has already been separated for reuse and is not intended for disposal; and
- C. The operations premises of a duly licensed solid waste collection operation who handles solid waste as an activity incidental to the conduct of a refuse collection and disposal business.

**“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; easier to contain, manager or use as fuel, nutrient, soil amendment or other additive.

**“Tribe”** means the Blackfeet Nation.

**“Tribal Court”** means the Blackfeet Tribal Court.

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

**“Vector”** means any insect, arthropod, rodent or other animal capable of transmitting a pathogen from one organism to another or of disrupting the normal enjoyment of life by adversely affecting the public health and wellbeing.

**“Waste”** means and includes wastewater 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 of the Reservation”** or **“Reservation Waters”** means any water, surface or underground, contained within, flowing through or bordering upon the Blackfeet Reservation or any portion thereof.

**“Water Quality Standards”** designate or establish waters within a specified area:

- A. Beneficial uses to be protected;
- B. Water quality objectives; and,
- C. A program of implementation needed for achieving and maintaining water quality objectives.

**“Water Quality Criteria”** means specific levels of water quality that, if reached, are expected to render a body of water suitable for its beneficial use.

**“Willful”** means voluntary and intentional, but not necessarily malicious.

### **Section 3. Findings**

The Blackfeet Tribal Business Council hereby finds:

- A. The increasing volume, variety and inadequate existing methods of managing solid and hazardous waste generated on the Blackfeet Reservation creates conditions that threaten the public health, safety and welfare of tribal members, residents of the Blackfeet Reservation and those who are temporarily on the Blackfeet Indian Reservation. The inadequate methods of managing solid and hazardous waste contributes to land, air and water pollution, production of vectors and litter, which results in the diminishing natural resources and aesthetics, and the general deterioration of the Blackfeet Reservation environment.
- B. There is an increasing need to address ever changing environmental conditions on the Blackfeet Reservation. The traditional methods of solid waste and hazardous waste management may not meet future requirements for eliminating environmental pollution and conserving natural resources.
- C. The people of the Blackfeet Nation have a vested interest in the protection and control of the land and other natural resources affected by the improper disposal of solid and hazardous waste within the Blackfeet Reservation. The quality of such land and other natural resources must be protected to ensure the health, economic, aesthetic, and cultural well being of the Blackfeet Reservation residents and their environment.
- D. Unregulated Junk or Salvage Yards are a public nuisance. Junk vehicles have become a serious health problem within the Blackfeet Indian Reservation. Dangerous fluids often leak from the vehicles, eventually contaminating domestic water sources, posing a serious health threat to people and animals. They have the potential to become garbage dumps and home to stray animals and vermin presenting a risk of the spread of diseases.
- E. Open dumping is particularly harmful to human health and the environment in that it contaminates surface and subsurface drinking water sources, as well as land and air on the Blackfeet Reservation.



- F. Open dumping also contaminates biological and inert receptors.
- G. Pursuant to Federal law and inherent authority, the Blackfeet Nation possesses the authority to regulate on-reservation solid waste disposal by all persons and businesses since their disposal activities threaten and directly affect the Tribe's political integrity, economic security, health, safety, and welfare. Such regulatory authority also extends over members of the Tribe, Indians of other Tribes and non-Indians and to all lands within the boundaries of the Blackfeet Indian Reservation.
- H. Avenues leading to source reduction, recovery and recycling of all solid waste are essential to the long-range preservation of the health, safety and welfare of residents of the Blackfeet Reservation and will be advantageous to the economic growth of the Blackfeet Nation and to the conservation of natural resources.
- I. Disposal of solid waste and hazardous waste in or on the land without careful planning and management will present a danger to public health and the environment.
- J. Methods are available to separate recoverable materials from solid waste. The recovery and conservation of such materials can produce numerous benefits to the Blackfeet Nation and the United States, including economic benefits in the way of savings realized by conserving material in order to reduce the value or quantity of materials that ultimately becomes solid waste.
- K. It is in the best interest of the Blackfeet Nation and Blackfeet Reservation residents to maintain the *Blackfeet Integrated Solid Waste Management Plan (BISWMP)*. The objectives of BISWMP will be to manage and control solid and hazardous waste on or which may come onto the Blackfeet Reservation. This will enable the Blackfeet Nation to protect the health, safety and welfare of Blackfeet Reservation residents and maximize reuse of resources contained in solid waste.
- L. Passage, adoption and implementation of this Code will adequately provide for the protection of Blackfeet Reservation resources not addressed in or by existing laws.

#### **Section 4. Purpose**

The general purposes of this Code are to:

- A. Finance, implement, regulate and enforce environmental standards and exercise comprehensive Tribal regulatory authority over all solid and hazardous waste issues and concerns within the exterior boundaries of the Blackfeet Reservation.
- B. Protect fundamental Tribal cultural, ceremonial, spiritual, and religious integrity within the exterior boundaries of the Blackfeet Reservation.
- C. Protect economic stability of residential, agricultural, commercial, industrial, forest, wetlands, riparian and environmentally sensitive lands and fishery uses within the exterior boundaries of the Blackfeet Reservation.

- D. Prevent the further deterioration of the environment, standard of living, quality-of-life, health, safety and welfare of all persons within the exterior boundaries of the Blackfeet Reservation.
- E. Provide and promote Tribal environmental protection, through the resources offered by the environmental programs that regulate environmental activities on the Blackfeet Reservation under the principles of tribal sovereignty.
- F. Prevent air, water, wetlands, riparian, and land from solid and hazardous waste pollution, including contamination of the Tribe's aquifers, groundwaters, surface waters, drinking water supplies and other natural resources.

**Section 5. Authority, Scope, Severability and Repeal of Conflicting Laws**

- A. Authority. This Tribal Solid Waste Code is adopted, as amended by the Blackfeet Tribal Business Council, authorizing the appropriate Blackfeet Tribal governmental agencies to undertake such actions pursuant to this Code.
- B. Effective Date. This Code shall become effective on the date of adoption by the Blackfeet Tribal Business Council, notwithstanding the execution of the enacting resolution.
- C. Amendments. The Blackfeet Tribal Business Council retains authority to amend this Code after a public comment period and by the proper adoption of a resolution.
- D. Modifications, Amendments and Applicability of 40 CFR, Part 258 Criteria. This Code incorporates by this reference all of the applicable regulations contained in 40 CFR, Part 258. If any regulation of Part 258 is modified or amended, such applicable modifications or amendments are automatically incorporated by this reference and become part of this Code. However, if any specific provisions of this Code are more stringent than the Part 258 Criteria, then the provisions of this Code are applicable and controlling.
- E. Scope. The provisions of this Code shall apply to all existing and proposed solid waste hazardous waste disposal activitiesAs such activities affect cultural, ceremonial, religious, fishery, seasonal residential, public health, safety, welfare, land, air or water quality, and all other fundamental and collateral interests of the Tribe, including such activities conducted by governmental facilities, members of the Tribe, members of other tribes, and non-Indians on lands within the boundaries of the Blackfeet Reservation. Activities to be regulated hereunder include but not are not limited to:
  - 1. Landfills and dumps;
  - 2. Disposal of animal carcasses;
  - 3. Automobile graveyards, salvage yards, and junkyards;
  - 4. Transfer stations, recyclable facilities, and reclamation centers;
  - 5. Tire dumps;
  - 6. Special wastes, e.g. methamphetamine or other clandestine lab waste, asbestos refuse, etc; and,
  - 7. All other activities that involve the storage, collection, transportation or disposal of solid and/or hazardous waste within the exterior boundaries of the Blackfeet Reservation.

- F. Sovereign Immunity Preserved. Nothing in this Code is intended to waive the Blackfeet Tribe's sovereign immunity from an unconsented lawsuit nor as authorization for a claim for monetary damages from the Tribe.
- G. Severability. If any provision of this Code or the application thereof to any person, entity, or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of this Code and such invalidity is severed from this Code.
- H. Repeal of Conflicting Laws. This Code shall supersede any conflicting Tribal laws or enactments.
- I. Citation or Use of Language from Other Laws. Citation to statutory or administrative language, definitions, procedure, or provisions of federal or state law in this code does not establish jurisdiction, which otherwise does not exist, and such federal or state government. Further, nothing in this Code may be deemed a waiver of the Blackfeet Nation's sovereign immunity, and if any court of competent jurisdiction construes this provision as conflicting with any other provision of this Code, then this express retention of sovereign immunity shall control and prevail.

#### **Section 6. Applicability**

This Code, and any regulations and rules adopted thereunder, shall apply to:

- A. All persons, profit and nonprofit organizations, schools, governmental facilities and other entities within the exterior boundaries of the Blackfeet Reservation, without exception, including but not limited to, all tribal members and all other persons on the Blackfeet Reservation, including any Indians who are members of other Indian tribes, and non-Indians, and any other person as defined under this Code;
- B. All places and lands located within the exterior boundaries of the Blackfeet Reservation, including all trust and non-trust lands, and notwithstanding the issuance of any patent, fee, allotment, right-of-way, lease or any real property interest of any kind, held by any person as defined under this Code; and
- C. All subsurface interests on the Blackfeet Reservation, notwithstanding the trust, fee, allotment, or lease status of the interests.

#### **Section 7. Consensual Relations among Non-Members, the Blackfeet Tribe and Tribal Members**

Any person, governmental facility, profit and nonprofit organization, school, or other entity who uses land for solid or hazardous waste purposes anywhere within the exterior boundaries of the Blackfeet Reservation, whether trust or non-trust land, enters into a consensual relationship with the Blackfeet Tribe, is subject to the jurisdiction of the Blackfeet Tribe since such use of the land involving the storage, collection, transportation and disposal of solid or hazardous waste on the Blackfeet Reservation will have a demonstrably serious impact upon the environment, natural resources, public health or safety, welfare, political integrity and economic security of the Tribe

and its members and other residents, unless such use is in compliance with the provisions of this Code, and any regulations promulgated thereunder.

## **PART II. TRIBAL ENVIRONMENTAL PROTECTION PROGRAM**

### **Section 1. Blackfeet Environmental Office Designation as Lead Tribal Department and Duties**

The Blackfeet Environmental Office “BEO” shall be the lead Tribal Department for the implementation and enforcement of this Code so as to ensure compliance with its provisions and for all purposes under *40 CFR part 258*. The Blackfeet Environmental Office shall:

- A. Develop and establish a permitting or licensing system which conforms to all Tribal and federal laws; and, the enforcement of the system.
- B. At the request of a party denied a permit or license by the BEO, the Department shall conduct administrative proceedings to determine the propriety of the denial and may affirm or reverse the denial.
- C. Develop a permit or license fee schedule and the enforcement of the schedule.
- D. Enforce the civil penalties in this Code.
- E. Deposit revenue from fines assessed in a separate Tribal account for the purpose of defraying the costs of implementing and enforcing the Tribe’s environmental laws and regulations.
- F. Promulgate regulations for the control, operation, and licensing of any solid waste facility or operation on the Blackfeet Reservation.
- G. Promulgate regulations for the removal of solid waste which threatens any water source on the Blackfeet Reservation, and in accordance with current laws and regulations protecting water on the Blackfeet Reservation.
- H. Develop appropriate internal regulations, policies and procedures for the implementation and enforcement of this Code, including the matters regarding hazardous wastes and collection of delinquent fees.
- I. Ensure the availability to the public of such regulations, policies, and procedures.
- J. Perform inspections or evaluations of any facility, vehicle, and sites used to collect solid wastes to determine compliance with this Code.
- K. Develop and implement the *Blackfeet Integrated Solid Waste Management Plan (BISWMP)*, and recommend amendments, pursuant to the requirements of this Code, the *SWDA* and subsequent amendments, federal regulations contained at *40 CFR Parts 239, 257, and 258* and all other applicable federal regulations.
- L. Development, establish, and implement a *Tribal Response Program* under the authority of the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec 9601*, and all subsequent amendments.



- M. Respond to reports of emergency and non-emergency incidences, investigate and initiate corrective action as necessary.
- N. Initiate and process administrative actions for violations of this Code including but not limited to investigations, the issuance of compliance orders, cease and desist orders, and corrective action orders.
- O. Promulgate rules, as necessary and consistent with this Code, for the conduct of administrative proceedings or public hearings.
- P. Conduct administrative proceedings regarding alleged violations of this Code upon timely application and may affirm civil penalties and fines pursuant to the civil penalty and fine schedule under this Code. The Department may reverse or modify such penalty or fine in the event it determines that no violations occurred or that the schedule was inappropriately applied. The Department may also affirm, reverse or modify any corrective order.
- Q. Assist or receive assistance from other Tribal, State, or Federal Agencies for the implementation of this Code, including referring alleged or actual violations of this Code or other laws.
- R. Prepare and file an annual report with the Blackfeet Tribal Business Council no later than July 1 of each year which shall review the activities, including the *BISWMP* conducted under this Code.
- S. Research and prepare applications for funding by federal and state agencies or other sources of funding for the implementation of this Code.
- T. Secure technical and other assistance as necessary to implement this Code.
- U. Provide any assistance to the Blackfeet Nation or its departments and programs in matters pertaining to this Code and the *BISWMP*.
- V. Provide public education as to matters involving solid waste collection and disposal and the environmental protection of the Blackfeet Indian Reservation.
- W. Review and make recommendations to the Tribe's Solid Waste Program to assure compliance with this Code.
- X. Recommend amendments to this Code, regulations, policies and procedures to further the purpose of this Code.
- Y. Conduct public meetings and hearings regarding the implementation, administration or modification of this Code.
- Z. Audit the records of companies who are in the business of removing, hauling and disposing of oil field waste to ensure that such companies are complying with the requirements of this Code. Compliance audits shall be made upon 24 hours notice to the company provided; however if the Blackfeet Tribe receives a report of any willful violation of this Code, the

audit shall be done immediately. Audits shall include checking records for the receipt of oil field waste against the records of the receipt of the authorized disposal site.

The Department is not authorized to consent to non-tribal jurisdiction or attempt to waive the sovereign immunity of the Blackfeet Tribe or its agents, including any department, program, employee acting within his or her scope of authority, members of any committee and members of the Council.

## **Section 2. Blackfeet Integrated Solid Waste Management Plan (BISWMP)**

The Blackfeet Environmental Office “BEO” shall update the comprehensive *Blackfeet Integrated Solid Waste Management Plan* or “*BISWMP*” every five (5) years. The Plan shall express the policies for the Blackfeet Nation in regard to all solid and hazardous waste collection, transportation, handling, treatment, storage and disposal on or off the Blackfeet Reservation. The *BISWMP* is listed on the Blackfeet Nation Website and BEO website.

### **PART III. ENFORCEMENT AND ADMINISTRATIVE PROCEDURES**

#### **Section 1. Enforcement Policy**

It is the policy of the Blackfeet Nation and the Blackfeet Environmental Office to:

- A. encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to the Blackfeet Reservation and its resources and to prevent any harm to the health, safety or welfare of the Blackfeet Reservation population;
- B. educate the public and other consumers to help them become compliant with this Code;
- C. to make recommendations, if practical, to an alleged violator to assist the violator to achieve compliance. The purpose of the assistance is to educate the violator and prevent the issuance of citations, fines and other penalties; and,
- D. initiate administrative proceedings, where appropriate, as provided by this Code or as provided by regulations or rules adopted by the BEO, consistent with the principles of due process, to provide effective and fair procedures for enforcement.

#### **Section 2. Enforcement Authority**

The Blackfeet Environmental Office shall be responsible for enforcing the provisions of this Code. The BEO is also specifically authorized to conduct investigations when a complaint, report or other notice is received from BEO staff other Tribal or governmental agencies or from the public; issue citations; issue notices to alleged violators of this Code; initiate any informal or formal hearing process; and issue appropriate orders and sanctions. Further, any commissioned officer of the Blackfeet Nation is authorized to issue citations for violations of this Code and, at the request of the BEO, conduct or assist in the investigation of alleged violations.

#### **Section 3. Actions Against Tribal Departments and Agencies**

In the event that the Blackfeet Tribal Business Council or any Tribal agency or department is alleged to have violated the terms and conditions of a solid waste permit, or to have conducted

activities without a permit, or to have otherwise violated this Code, the BEO shall notify the Executive Committee and the HSS Committee of the violations and the Executive Committee and HSS Committee shall assist in requiring the compliance of the Tribal agency or department. If the violation cannot be resolved with the Executive Committee and HSS Committee, the BEO shall conduct an enforcement hearing for the purpose of making factual determinations and issuing a decision directing a course of corrective action, as appropriate or necessary.

#### **Section 4. Enforcement Procedures**

- A. Investigation. When a complaint, report or other notice is received by the BEO of an incident which may be a violation of this Code, the BEO shall initiate a prompt investigation. In conducting an investigation, the BEO is authorized to conduct interviews of relevant persons and parties and to enter into an alleged violator's place of business, operation or facility to inspect the property or site, any books or other records, and take contaminant samples if such entry is a necessary part of the investigation. If necessary to provide for the immediate safeguard of the public, property, and the Reservation resources and environment, the BEO may enter the place of business, operation or facility without notice. In all other circumstances, the BEO shall enter the place of business, operation or facility upon the issuance of reasonable notice, except as provided by regulations or rules adopted by the BEO in relation to routine monitoring and inspecting property, sites, or facilities.
- B. Notice of Violation. Immediately subsequent to the investigation, the BEO shall make an assessment of the incident and issue a determination as to whether a violation of this Code most likely occurred. If the BEO finds after an investigation pursuant to this Code that a violation of this Code has most likely occurred or that any violation of a regulation, rule or permit has most likely occurred, the BEO shall promptly issue a written Notice of Violation to the alleged violator(s) and a copy of the Notice of Violation shall be provided to the Blackfeet Tribal Business Council through the Office of the Secretary of the Council. The Notice of Violation shall contain at a minimum the following information:
1. Name of the alleged violator or violators, if known; /
  2. The name of owner or owners of the property where the violation is to have alleged to have occurred, if known;
  3. The site or location of the alleged violation;
  4. The date or approximate date of the alleged violation; or the date of the discovery of the alleged violation; or the date BEO was notified of an alleged violation;
  5. A description of the alleged violation; and
  6. Any other relevant information.
- C. Notice to Other Potential Violator(s). In the event an apparent violation of this Code has occurred on property owned by a person other than the alleged violator, the BEO shall also issue a Notice of Violation to the legal landowner or owners of the property, including the Bureau of Indian Affairs if such violation occurred on trust land. In the event that the alleged violation may have occurred on trust lands, BEO may also notify the beneficial landowner or owners.

- D. Summons. A summons shall be issued with the Notice of Violation and shall require the alleged violator(s) or violators to appear before the Blackfeet Environmental Office at an administrative hearing and respond to the Notice of Violation. The summons shall state a specific location, time, and date for the administrative hearing. The summons shall also advise the alleged violator(s) that failure to appear and respond may result in the issuance of civil penalties.
- C. Corrective Action. If appropriate and feasible, the BEO shall also immediately issue any corrective action order or other orders as necessary to address the violation or impacts from the violation.
- D. Enforcement of other Agencies. The BEO may, as necessary, request enforcement by federal or other agencies of their respective laws regulating solid or hazardous waste processing, treatment, and disposal if such laws do not conflict with this Code.
- E. Consultation with other Agencies. The BEO may, as necessary, consult with appropriate health agencies concerning all activities involving solid waste collection, storage, processing, treatment, disposition and corrective actions.

## **Section 5. Administrative Hearings**

- A. Reports and Minutes. The BEO shall record, by way minutes and reports, all hearings and conferences. The record shall include, at a minimum, the date and place of the proceeding, the persons in attendance, the subject matter discussed, and any decisions reached with respect to enforcement action.
- B. Informal Conference. The BEO may afford the alleged violator(s) a reasonable opportunity to discuss proposed enforcement actions at an informal conference prior to taking further enforcement actions; provided, however, the BEO does not determine that there may be either imminent danger to the public, property, wildlife, livestock or the natural resources of the Blackfeet Reservation or other adverse effects upon the health, safety and welfare of the Blackfeet Reservation population. Informal conferences may be used at any stage in the enforcement proceedings, except that the BEO may refuse to conduct informal conferences with respect to any matter that is pending before the Blackfeet Tribal Court. In the event that an informal conference was held and the matters in dispute were not resolved, the BEO shall also initiate an administrative hearing.
- C. Administrative Hearing. The administrative hearing shall be before a Hearings Officer which will take testimony and other evidence from the BEO and the alleged violator(s) to determine whether a violation of this Code has occurred as described in the Notice of Violation. An alleged violator shall be entitled, at his or her own expense, to be represented by an attorney or other representative.
- D. Burden of Proof. The BEO shall have the burden of proving that a violation of this Code has occurred and that the alleged violator was responsible for the violation. The Hearings Officer shall rule that a violation of this Code has occurred if it finds that the allegations are supported by a preponderance of the evidence.
- E. Decision of Hearings Officer. The Hearings Officer shall issue a written decision within five (5) business days after the administrative hearing. If the Hearings Officer determines



that a violation has occurred and that the alleged violator(s) who were issued the Notice of Violation were responsible for the violation, the written decision of the Hearings Officer shall include an Enforcement Order specifying the required corrective and other actions of the violator(s).

- F. Enforcement Order. An Enforcement Order shall direct any violator or violators found to have committed a violation of this Code to take whatever corrective action the Hearings Officer deems appropriate. An Enforcement Order may impose civil penalties in accordance with the schedule of civil penalties prescribed pursuant to this Code. Alternatively, an Enforcement Order may impose civil penalties in the event that a violator or violators do not take corrective action in accordance with the Order and within the prescribed time frame. The enforcement order shall be final for purposes of judicial review.
- G. Remediation. Any individual or entity found to be in violation of this Code shall be required to remediate or pay for the cost of remediation of lands affected by the violation in order to prevent or minimize any environmental damages and minimize the risk to public health or to the environment. Remediation will be completed in accordance with standards set and determined by the Blackfeet Environmental Office.
- H. Abatement Damages. Any person who in violation of this Code stores, collects, transports or disposes of any solid waste or hazardous waste within the boundaries of the Blackfeet Reservation shall be liable for all costs associated with or necessary to clean up, impound, abate or remove said waste from the Blackfeet Reservation and restore the quality of the land and waters of the Blackfeet Reservation to their condition as they existed immediately prior to the storage, collection, transportation or disposal.
- I. Failure to Take Corrective Action. If a violator or violators do not take corrective action within the prescribed time frame, an appropriate department or agency of the Tribal government may take the necessary corrective action, in which case the amount of any civil penalty shall be increased by twice the amount of the cost incurred by the Tribal Department or agency in taking the corrective action.
- J. Additional Remedies. In addition to the fines assessed under this Code, any individual or entity found to be in violation of this Code or any individual or entity that fails to pay any fine assessed under this Code, or any individual or entity that fails to comply with corrective action or remediation provisions of this Code may be subject to the following penalties:
  - 1. Suspension or revocation of the individual or entity Blackfeet Business License by the Blackfeet Revenue Department.
  - 2. Loss of License or Permit by any Tribal Department.
  - 3. Loss of any Leases issued by the Blackfeet Tribe.

## **Section 6. Provisional Orders**

- A. Emergency Order. Notwithstanding any other provision of this Code, if the BEO determines that noncompliance with this Code presents an imminent and substantial threat

to the public health, welfare or environment and determines, in consultation with appropriate professionals and agencies, that it is not practicable to assure prompt protection of the public health, welfare or environment under the administrative procedures under this Part, the BEO may issue such emergency orders as may be necessary to protect the public health, welfare or environment. Any such order shall be effective immediately upon issuance and shall remain in effect for a period not to exceed sixty (60) days. A hearing on the emergency order shall be held by the Hearings Officer prior to the expiration of the sixty (60) days to determine whether the order should remain in effect for an extended period of time, based upon the need for continued protection in the emergency order.

- B. Cease and Desist Order. The BEO may issue a Cease and Desist Order in the event of a continuing violation. The BEO may also issue a Cease and Desist Order regarding a violation determined by BEO which is an imminent threat to the public, property, wildlife, livestock or the natural resources of the Reservation. Upon the issuance of a Cease and Desist Order, the violator or alleged violator shall immediately cease and desist any act which is in violation of this order and shall immediately correct the violation and abate any effects caused by the prohibited act. Failure to comply with a Cease and Desist Order shall constitute a violation of this Code. A Notice of Violation and a Cease and Desist Order may be issued for the same incident and may be issued contemporaneously. If a Cease and Desist Order is issued without an accompanying Notice of Violation, the Order will inform the recipient that failure to comply with the Order will constitute a violation of this Code that will result in the issuance of a Notice of Violation and may result in the imposition of daily or other civil penalties and temporary seizure of equipment used in the violation.

#### **Section 7. Revocation of Permit or License and Petition for Reinstatement**

Failure of any *MSWLF* permittee or other permittee or licensee under this Code to comply with any Enforcement Order or other orders will result in an immediate revocation of the *MSWLF* permit or license. However, a permittee may petition the BEO for reinstatement of a revoked permit if the matter is not pending before the Hearings Officer. A permittee may petition the Hearings Officer if the matter is pending before the Hearings Officer. The petition must contain documentation that the permittee is in compliance with all orders of the BEO, or orders of the Hearings Officer, as appropriate, and that all outstanding penalties have been paid.

### **PART IV. JUDICIAL REVIEW**

The Blackfeet Tribal Court shall have jurisdiction of all cases and controversies arising under this Code when an administrative decision is final.

- A. The BEO may request the Blackfeet Tribal Business Council to authorize the BEO to file an action for judicial enforcement of an administrative order in Tribal Court pursuant to this Code for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law, including the assessment and recovery of civil penalties and clean up and administrative costs associated with the enforcement of this Code, in any of the following instances:
1. whenever a person has violated, or is in violation of, any provision of this Code, including but not limited to a regulation, permit or order issued pursuant to this Code;

2. whenever a person submits false information under this Code or regulations promulgated under this Code; or
  3. whenever a person is creating an imminent and substantial endangerment to the public health, welfare, environment or cultural resources of the Tribe, in which case the BEO shall pursue injunctive relief.
- B. In the event that an action may be brought against the Tribe or a Tribal department or agency, such action shall be limited to injunctive relief and shall not include monetary penalties or damages.

## **PART V. REGULATIONS AND PENALTIES**

This Part covers all Regulations and Penalties under this Code. Appendix A provides for the penalties issued for each prohibited activity under this Part, as an enforcement tool for the Blackfeet Tribe.

### **Section 1. Disposal of Animal Carcasses**

It is unlawful to: (1) Place all or any part of a dead animal in any lake, river, creek, pond, reservoir, road, street, alley, lot, or field; (2) Place all or any part of a dead animal within 1 mile of the residence of any person unless the dead animal or part of dead animal is: (a) burned or buried at least 2 feet underground; (b) placed in an authorized animal composting facility that is approved by the Blackfeet Tribe.

### **Section 2. Salvage Yards**

It shall be unlawful for any person to operate a salvage yard on the Blackfeet Reservation in violation of Salvage Yard regulations as follows:

#### **A. Administrative Requirements.**

1. Every Salvage Yard shall maintain books or files that should include a record and description of every junk vehicle or their property along with the name or person from whom the vehicle was purchased or gifted. All records must be kept on file at the site office. Records shall include:
  - a. certificate of titled, "Sheriff's Certificate of Sale", a written release from the former owner, or an order from the Blackfeet Tribal Court stating ownership of the vehicle;
  - b. where the vehicle was last registered;
  - c. number of the last license plate;
  - d. make of the vehicle;
  - e. VIN or serial number;
  - f. date of purchase or gift;
  - g. disposition of the motor and chassis;
  - h. records of proper fluid and hazardous material removal and disposal from all vehicles upon entry to the salvage site and after arrival on site; and
  - i. final disposal records of all vehicles on the site.

2. Licensing for Salvage Facilities.
  - a. Application for a license shall be made on forms provided by the BEO;
  - b. Annual Fee of \$250.00. An operation by the Blackfoot Tribe shall be exempt;
  - c. Display of the license on site;
  - d. Licenses expire on December 31st of each year; and,
  - e. Upon closure or ceasing of operations, the license shall be surrendered to the BEO; and, and non-transferable.
  
3. Salvage Facility Requirements.
  - a. All Salvage Facilities shall be shielded from public view;
  - b. Shielding shall be made of materials that best protects the site from illegal entrance and does not allow for the viewing of objects from the outside of the facility, this shall include a fence height that meets the objectives of this requirement;
  - c. shielding must be maintained and not fall into disrepair;
  - d. entrances shall be limited and have secure locking;
  - e. cannot be located within 150 yards of a stream, river, wetland, drainage waterway, or any other water body on the Blackfoot Reservation;
  - f. "emergency spill plan" for all hazardous waste; and,
  - g. Have a plan for the storing and disposing of hazardous materials, fluids, refrigerants, batteries, etc.
  
4. Salvage Facility License Denial, Suspension or Revocation. The BEO may deny, suspend or revoke any Salvage Facility license when any of the following situations are proven where the operation:
  - a. Sold or otherwise disposed of a motor vehicle, trailer, junk, any part thereof or any other junk items or parts thereof when it was known that the subject item was taken without consent of the owner;
  - b. Committed forgery of a "Certificate of Title" from a vehicle that has been re-assembled from parts obtained from the dismantling of other vehicles;
  - c. Failed to comply with this Code or a regulation, resolution or law of the Blackfoot Nation or any department thereof;
  - d. Obtained the license fraudulently; or
  - e. Operated without a license.

### **Section 3. Tire Dumps**

It shall be a violation of this Code for any person to generate scrap tires and create tire dumps, without a proper permit. Generators of these dumps may include, but are not limited to, retail tire dealers, retreaders, scrap tire processors, automobile dealers, private company vehicles maintenance shops, garages, service stations, and city, county, and state governments.

**Section 4. Methamphetamine or Other Clandestine Lab Waste**

It shall be unlawful for any person to possess any container, device and/or chemical associated with the manufacturing of methamphetamines and its byproducts included by not limited to: solvents, corrosives, metals and salts, over the counter medicine, etc.

**Section 5. Littering**

- A. It is a violation of this Code for any person to dump, deposit, drop, throw, discard, or leave litter upon any public or private property within the Reservation unless the litter is deposited into an approved or authorized receptacle or location.
- B. It is also a violation of this Code or any person to cause or allow the dumping, depositing, dropping, throwing, discarding or leaving litter upon any public or private property within the Reservation unless the litter is deposited into an approved authorized receptacle or location.

**Section 6. Littering from Motor Vehicle and Non-motorized Transportation**

- A. It is a violation of this Code for any person to dump, deposit, drop, throw, discard, or otherwise dispose of litter from any motor vehicle upon any public highway or upon public or private property.
- B. It is also a violation of this Code for any person to dump, deposit, drop, throw, discard or otherwise dispose of litter from any non-motorized form of transportation, such as, but not limited to a bicycle, wagon, and horse.

**Section 7. Littering in or Polluting of Waters**

It is a violation of this Code for any person to dump, deposit, drop, throw or discard litter or other waste into any creek, river, ditch pond, lake, or water conveyance system.

**Section 8. Accumulation of Litter**

It is a violation of this Code for any person to accumulate or permit the accumulation of litter on areas under his or her control in such a manner as to constitute a public nuisance, or which may be injurious to the public health, or is offensive to residents of the community.

**Section 9. Unauthorized Disposal at Open Dump Sites or Other Areas**

- A. It is a violation of this Code for any person to dispose of, dump, abandon, scatter, or place any solid waste in open dumps or other areas which are not authorized to receive such waste.
- B. It is also a violation of this Code for any person to cause the disposal, dumping, abandoning, scattering, or placement of any solid waste in open dumps or other areas which are not authorized to receive such waste.

**Section 10. Operating an Unauthorized Waste Disposal Facility**

- A. It is a violation of this Code for any person to operate a waste disposal facility without a permit issued in accordance with this Code or in violation of any policy, regulation or rule promulgated by the BEO.
- B. It is also a violation of this Code for any person to cause the operation of any such facility without a permit or in violation of any policy, regulation or rule.

**Section 11. Solid Waste Receptacles and Responsibility of Owners or Occupants of Dwellings, Governmental Facilities, Profit and Non-profit Organizations, Schools or Other Entities**

- A. It is a violation of this Code for owners or occupants of any dwelling, governmental facility, profit and non-profit organization, school or other entity to use or permit the use of solid waste receptacles which do not meet the following requirements:
  - 1. Solid waste receptacles must be durable, leak-proof, nonabsorbent, watertight, corrosion resistant, rodent and insect resistant, easily cleanable, have close fitting covers and adequate handles to facilitate handling by collection workers or vehicles. Receptacles for household use must have at least a 95 gallon capacity and must be stored off the ground on racks or stands and must be easily accessible for collection.
  - 2. Receptacles for government facilities, profit and non-profit organizations, schools and other facilities, whose generation of solid waste exceeds that of household users, must use containers whose size and construction are approved by BEO. The receptacles must be durable, leak-proof, nonabsorbent, water-tight, corrosion resistant, rodent and insect resistant, easily cleanable, have close fitting covers and compatible with collection vehicles.
- B. Owners or occupants of dwellings, governmental facilities, profit and nonprofit organizations, schools and other entities shall be responsible for the safe and sanitary storage of all solid waste accumulating until such waste is removed by collection workers.

**Section 12. Scavenging**

It is a violation of this Code for any person to scavenge solid waste from collection sites, receptacles or containers, storage sites, transfer sites or disposal sites.

**Section 13. Construction and Demolition Wastes**

- A. It is a violation of this Code for any person to dispose of construction and demolition wastes in residential collection receptacles or containers, or to dispose of such wastes at the construction or demolition site or at any other site not authorized to receive such wastes.
- B. It is also a violation of this Code for any person to cause the disposal of construction and demolition wastes in residential collection receptacles or containers, or to cause the disposal of such wastes at the construction or demolition site or at any site not authorized to receive such wastes.



#### **Section 14. Liquids**

It is a violation of this Code to dispose of bulk or non containerized wastes in collection receptacles or containers, or in landfills. However, containers of one gallon or less holding household liquid wastes may be deposited in approved receptacles or containers or transfer-stations.

#### **Section 15. Lead Acid Batteries and Rechargeable Batteries**

It is a violation of this Code for any person to dispose or discard any lead acid battery or rechargeable battery in any location on the Reservation. However, such batteries may be delivered for disposal to a battery retailer or wholesaler or an authorized collection or recycling facility.

#### **Section 16. Asbestos and Asbestos-Containing Materials**

- A. It is a violation of this Code for any person to dispose of asbestos or materials containing asbestos at any location or facility not authorized to receive such asbestos or materials.
- B. Prior to shipping, friable materials containing asbestos must be saturated with water and placed in properly labeled leak-proof containers and processed for shipping by personnel certified to process asbestos and asbestos-containing materials.
- C. Removal, transportation, and disposal of asbestos and asbestos-containing materials must be conducted in compliance with all applicable federal laws and regulations. For purposes of this section the term "transportation" shall also include the movement of a house or other structure with asbestos-containing materials beyond the property boundary.
- D. Any person who performs the demolition of a building or other structure constructed with asbestos or asbestos-containing materials must secure a permit issued by the BEO prior to the demolition authorizing his or her demolition of such structure.

#### **Section 17. Plastic Bags**

It is a violation of this code for any retailer, whether temporary or permanent on the Blackfeet Reservation to issue plastic bags to patrons for the purpose of carrying purchased goods. Retailers may still issue separate produce bags.

#### **Section 18. Oil and Gas Exploration Wastes**

- A. It is a violation of this Code for any individual or entity to dispose of any waste or other hazardous substances associated with the exploration or production of oil and gas on the Blackfeet Reservation at the drilling site or at any site not classified as an authorized facility by the Blackfeet Environmental Office.
- B. It is also a violation of this Code for any individual or entity to willfully, negligently or accidentally dispose of any waste associated with the exploration or production of oil and gas on any lands within the exterior boundaries of the Blackfeet Reservation that is not

approved by the Blackfeet Environmental Office. Such a violation under this section shall result in civil penalties as set forth in this Code.

### **Section 19.    Avoiding Payment of Disposal Fee**

It is a violation of this Code for any person, with the purpose or intent of avoiding payment of disposal fees, to dispose of household or commercial waste in the receptacles of another unless the receptacles are intended for residents, patrons, or consumers of the other and the person disposing the waste is a resident, patron or consumer of the other.

#### **Legislative History**

***Resolution No. 293-2023***, “***Approving the Second Amendment to Ordinance #105 Banning Plastic Bags Issued by Retailers for Patrons for Purchased Goods on the Blackfeet Reservation; and, Updating and Codifying Ordinance #105 as the Blackfeet Solid Waste Code, Chapter 21 in the Blackfeet Law and Order Code***” dated March 2, 2023. Amendment to include ban plastic bags from retailers, to remove the committee, update junk vehicle ordinance provisions, update definitions, update and codification of violations, and, to codify Ordinance #105 at Chapter 21 of the Blackfeet Law and Order Code. *Repeals and Replaces all prior Resolutions and Ordinances below; and, consolidates matters under the Solid Waste Code, Chapter 21, Blackfeet Law and Order Code.*

***Resolution No. 186-2012, Amending the “Blackfeet Solid Waste Ordinance #105”*** dated May 10, 2012. Amendments to include regulations for the prevention of harmful dumping of waste associated with oil and gas exploration and production.

***Resolution No. 414-2009, Adopting the “Blackfeet Solid Waste Ordinance #105”***, dated August 6, 2009. Rescinds “Revised Solid Waste Management Code” adopted by Resolution No. 115-92, and any amendments thereto.

***“Ordinance 11-B Junk Vehicles and Wrecking Yard Ordinance”***, dated May 10, 2003.

***Resolution No. 179-96, Adopting the “Blackfeet Solid Waste Management Code”***, dated May 31, 1996. Amends Resolution No. 115-92 pertaining to violations, penalties and appeal processes. *Rescinded by Resolution No. 414-2009.*

***Resolution No. 115-92, Approving amendments to the “Revised Solid Waste Management Code”***, dated February 6, 1992. Amendments included updates in accordance with RCRA, Opposing changes to the Solid Waste Program. *Rescinded by Resolution No. 414-2009.*

***Resolution No. 265-88, “Amending Ordinance No. 52”***, dated April 26, 1988. Amends Ordinance #52, to address the problem of requiring vehicles carrying garbage to dumping grounds to either be enclosed or to pick up any garbage falling or dropped from such vehicles, to include updates to the penalties.

***“Amendment to Ordinance No. 52”***, dated May 6, 1976. Amends Ordinance #52, to address the problem of requiring vehicles carrying garbage to dumping grounds to either be enclosed or to pick up any garbage falling or dropped from such vehicles.

**APPENDIX A Civil Fines**

CITATION	VIOLATION	FINE AMOUNT
<p><b>21(V)(1)</b> Disposal of Animal Carcasses</p>	<p>It is unlawful to: (1) Place all or any part of a dead animal in any lake, river, creek, pond, reservoir, road, street, alley, lot, or field; (2) Place all or any part of a dead animal within 1 mile of the residence of any person unless the dead animal or part of dead animal is: (a) burned or buried at least 2 feet underground; (b) placed in an authorized animal composting facility that is approved by the Blackfeet Tribe</p>	<p>Minimum of \$75.00 Maximum \$5,000.00 This fine amount is per day per violation</p>
<p><b>21(V)(2)</b> Junk or Salvage Yards</p>	<p>It shall be unlawful for any person to operate a junk or salvage yard on the Blackfeet Reservation in violation of Junk or Salvage Yard regulations, where the operation:</p> <ul style="list-style-type: none"> <li>A. Sold or otherwise disposed of a motor vehicle, trailer, junk, any part thereof or any other junk items or parts thereof when it was known that the subject item was taken without consent of the owner;</li> <li>B. Committed forgery of a "Certificate of Title" from a vehicle that has been re-assembled from parts obtained from the dismantling of other vehicles;</li> <li>C. Failed to comply with this Code or a regulation, resolution or law of the Blackfeet Nation or any department thereof;</li> <li>D. Obtained the license fraudulently; or</li> <li>E. Operated without a license</li> </ul>	<p>Minimum of \$75.00 Maximum \$5,000.00 This fine amount is per day per violation</p>
<p><b>21(V)(3)</b> Tire Dumps</p>	<p>It shall be a violation of this Code for any person to generate scrap tires and create tire dumps, without a proper permit. Generators of these dumps may include, but are not limited to, retail tire dealers, retreaders, scrap tire processors, automobile dealers, private company vehicles maintenance shops, garages, service stations, and city, county, and state governments</p>	<p>Minimum of \$75.00 Maximum \$5,000.00 This fine amount is per day per violation</p>
<p><b>21(V)(4)</b> Methamphetamine or Other Clandestine Lab Waste</p>	<p>It shall be unlawful for any person to possess any container, device and/or chemical associated with the manufacturing of methamphetamines and its byproducts included by not limited to: solvents, corrosives, metals and salts, over the counter medicine, etc.</p>	<p>Minimum of \$75.00 Maximum \$5,000.00 This fine amount is per day per violation</p>

<b>21(V)(5)(A)</b> Littering	Any person to dump, deposit, drop, throw, discard or leave litter upon any public or private property within the Reservation	Minimum of \$50.00 Maximum \$100.00
<b>21(V)(5)(B)</b> Littering	Any person to cause or allow the dumping, depositing, dropping, throwing, discarding or leaving litter upon any public or private property within the Reservation	This fine amount is per day per violation
<b>21(V)(6)(A)</b> Littering from Motor Vehicle and Non-Motorized Transportation	Any person to dump, deposit, drop, throw, discard or otherwise dispose of litter from any motor vehicle upon any public highway or upon public or private property.	Minimum of \$75.00 Maximum \$5,000.00
<b>21(V)(6)(B)</b> Littering from Motor Vehicle and Non-Motorized Transportation	Any person to dump, deposit, drop, throw, discard or otherwise dispose of litter from any non-motorized form of transportation, such as but not limited to a bicycle, wagon, and horse	This fine amount is per day per violation
<b>21(V)(7)</b> Littering in or Polluting of Waters	Any person to dump, deposit, drop, throw or discard litter or other waste into any creek, river, ditch, pond, lake or other water conveyance system	Up to \$5,000.00 This fine amount is per day per violation
<b>21(V)(8)</b> Accumulation of Litter	Any person to accumulate or permit the accumulation of litter on areas under his or her control in such a manner as to constitute a public nuisance, or which may be injurious to the public health, or is offensive to residents of the community	Minimum of \$75.00 Maximum \$5,000.00 This fine amount is per day per violation
<b>21(V)(9)(A)</b> Unauthorized Disposal at Open Dump	Any person to dispose of, dump, abandon, scatter or place any solid waste in open dumps or other areas which are not authorized to receive such waste	Minimum of \$50.00 Maximum \$5,000.00

Sites or Other Areas		This fine amount is per day per violation
<b>21(V)(9)(B)</b> Unauthorized Disposal at Open Dump Sites or Other Areas	Any person to cause the disposal, dumping, abandoning, scattering or placement of any solid waste in open dumps or other areas which are not authorized to receive such waste	
<b>21(V)(10)(A)</b> Operating an Unauthorized Waste Disposal Facility	Any person to operate a waste disposal facility without a permit issued in accordance with this Code or in violation of any policy, regulation or rule promulgated by the BEO	Minimum of \$1,000.00 Maximum \$15,000.00 This fine amount is per day per violation
<b>21(V)(10)(B)</b> Operating Unauthorized Waste Disposal Facility	Any person to cause the operation of any such facility without a permit or in violation of any policy, regulation or rule	
<b>21(V)(11)(A)</b> Solid Waste Receptacles	Owners or occupants of any dwelling, governmental facility, profit and non-profit organization, school or other entity to use or permit the use of solid waste receptacles which do not meet the following requirements under subsections 1 and 2 of this violation.	Minimum of \$50.00 Maximum \$100.00 This fine amount is per day per violation
<b>21(V)(12)</b> Scavenging	Any person to scavenge Solid Waste from collection sites, receptacles or containers, storage sites, transfer sites or disposal sites.	Minimum of \$50.00 Maximum \$100.00 This is amount is per day per violation

<p><b>21(V)(13)(A)</b> Construction Demolition Wastes</p>	<p>Any person to dispose of construction and demolition wastes in residential collection receptacles or containers, or to dispose of such wastes at the construction or demolition site or at any other site not authorized to receive such wastes</p>	<p>*If less than 1 ton &amp; non-hazardous materials: Minimum of \$300.00 Maximum \$10,000.00</p>
<p><b>21(V)(13)(B)</b> Construction demolition Waste</p>	<p>Any person to cause the disposal of construction and demolition wastes in residential collection receptacles or containers, or to cause the disposal of such wastes at the construction or demolition site or at any site not authorized to receive such wastes.</p>	<p>This fine amount is per day per violation *If more than 1 ton or hazardous materials: Minimum of \$1,000.00 Maximum of \$20,000.00 This fine amount is per day per violation</p>
<p><b>21(V)(14)</b> Liquids</p>	<p>Dispose bulk or non-containerized wastes in collection receptacles or containers, or in landfills.  Containers of one gallon, or less, holding household liquid wastes in approved receptacles or containers or transfer-stations</p>	<p>Minimum of \$75.00 Maximum of \$5,000.00 This fine amount is per day per violation</p>
<p><b>21(V)(15)</b> Lead Acid Batteries and Rechargeable Batteries</p>	<p>Any person to dispose or discard any lead acid battery or rechargeable battery in any location on the Reservation</p>	<p>Minimum \$75.00 Maximum \$5,000.00 This fine amount is per day per violation</p>
<p><b>21(V)(16)(A)</b> Asbestos and Asbestos-Containing Materials</p>	<p>Any person to dispose of asbestos or materials containing asbestos at any location or facility not authorized to receive such asbestos or asbestos-containing material</p>	<p>Minimum of \$5,000.00</p>
<p><b>21(V)(16)(B)</b></p>	<p>Prior to shipping, friable materials containing asbestos must be saturated with water and placed in properly labeled leak-proof containers and processed for shipping by</p>	<p>Maximum of \$80,000.00</p>



Asbestos and Asbestos-Containing Materials	personnel certified to process asbestos and asbestos-containing materials	This fine amount is per day per violation
<b>21(V)(16)(C)</b> Asbestos and Asbestos-Containing Materials	Removal, transportation and disposal of asbestos and asbestos-containing materials must be conducted in compliance with all applicable federal laws and regulations.  For purposes of this section, the term “transportation” shall also include the movement of a house or other structure with asbestos-containing materials beyond the property boundary	
<b>21(V)(16)(D)</b> Asbestos and Asbestos-Containing Materials	Any person who performs the demolition of a building or other structure constructed with asbestos or asbestos-containing materials must secure a permit issued by the BEO prior to the demolition authorizing his or her demolition of such structure	
<b>21(V)(17)</b> Plastic Bags	It is a violation of this code for any retailer, whether temporary or permanent on the Blackfeet Reservation to issue plastic bags to patrons for the purpose of carrying purchased goods, with the exception of produce bags	1st Offense is a \$100.00 Fine per violation  2nd Offense is a fine of \$500.00 Fine per violation  3rd Offense is the suspension of the Tribal Business License

<p><b>21(V)(18)(A)</b></p> <p>Oil and Gas Exploration Wastes</p>	<p>It is a violation of this Code for any individual or entity to dispose of any waste or other hazardous substances associated with the exploration or production of oil and gas on the Blackfeet Reservation at the drilling site or at any site not classified as an authorized facility by the Blackfeet Environmental Office</p>	<p><b>*WILLFUL VIOLATIONS</b></p> <p>1st Violation \$10,000-\$50,000</p> <p>2nd Violation \$25,000-\$200,000</p>
<p><b>21(V)(18)(B)</b></p> <p>Oil and Gas Exploration Wastes</p>	<p>It is also a violation of this Code for any individual or entity to willfully, negligently or accidentally dispose of any waste associated with the exploration or production of oil and gas on any lands within the exterior boundaries of the Blackfeet Reservation that is not approved by the Blackfeet Environmental Office. Such a violation under this section shall result in civil penalties as set forth in this Code</p>	<p>Subsequent Violation \$1,000,000</p> <p><b>*NEGLIGENT VIOLATIONS</b></p> <p>1st Violation \$5,000-\$25,000</p> <p>2nd Violation \$12,500-\$100,000</p> <p>Third Violation \$500,000</p>
<p><b>21(V)(19)</b></p> <p>Avoiding Payment of Disposal Fee</p>	<p>Any person, with the purpose or intent of avoiding payment of disposal fees, to dispose of household or commercial waste in the receptacles of another unless the receptacles are intended for residents, patrons, or consumers of the other and the person disposing the waste is a resident, patron or consumer of the other</p>	<p>Minimum of \$75.00</p> <p>Maximum of \$5,000.00</p> <p>This fine amount is per day per violation</p>