

**SAN CARLOS APACHE TRIBE  
SAN CARLOS APACHE INDIAN RESERVATION  
SAN CARLOS, ARIZONA**

**No. JN-23-089**

**(Enacting Solid Waste Management Code)**

**WHEREAS**, the San Carlos Apache Tribe (the “Tribe”) is a federally recognized Indian Tribe organized pursuant to the provisions of Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984); and

**WHEREAS**, the San Carlos Council (“Council”) has the authority, among other things, to “represent the Tribe and act in all matters that concern the welfare of the Tribe, and to make decisions not inconsistent with or contrary to [the Tribe’s] Constitution and Bylaws” and “[t]o enact ordinances, subject to review by the Secretary of the Interior, establishing and governing [the Tribe’s] courts and law enforcement on the Reservation” pursuant to Article V, Sections 1(a) and (m) of the Amended Constitution and By-Laws of the San Carlos Apache Tribe; and

**WHEREAS**, the Council by Resolution No. JY-93-125 adopted the Tribe’s Solid Waste Code; and

**WHEREAS**, for the last four years, the Tribe’s Department of Justice, together with the Planning and Zoning Committee, the Office of the General Manager, and the Tribe’s Department of Environmental Protection, has worked to draft a new Solid Waste Management Code; and

**WHEREAS**, pursuant to Resolution No. MR-23-035, the Council approved publication of a draft Solid Waste Management Code for a period of 30 days; and

**WHEREAS**, Resolution No. MR-23-035 further stated that “in the event that no comments are received from the public, the Council shall consider enactment at the next Regular Session”; and

**WHEREAS**, the Attorney General of the Tribe’s Department of Justice (“DOJ”) this day advises that DOJ has received no comments from the public or departments and, consequently, requests approval to enact the new Solid Waste Management Code, as attached and incorporated by this reference; and

**WHEREAS**, the Council concurs with the Attorney General’s recommendation and finds that enacting the new Solid Waste Management Code would provide for the establishment of a comprehensive solid and hazardous waste collection and disposal system to protect the health, safety, and well-being of residents within the

jurisdiction of the San Carlos Apache Tribe and thus would be in the best interest of the Tribe.

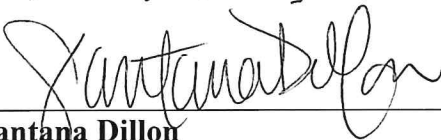
**BE IT RESOLVED** by the Council of the San Carlos Apache Tribe that:

1. The new Solid Waste Management Code, as attached and incorporated by this reference, is hereby approved for enactment.
2. Resolution No. JY-93-125 is hereby rescinded.
3. The former Solid Waste code that was enacted by Resolution No. JY-93-125 is hereby replaced with the new Solid Waste Management Code.
4. The new Solid Waste Management Code shall become effective on August 6, 2023 to allow training of the Tribe's departments and updating the surrounding districts and communities.
5. Any prior or existing resolutions or codes that conflicts with this amendment shall be superseded and voided.

**BE IT FURTHER RESOLVED** by the Council of the San Carlos Apache Tribe that the Chairman, or in his absence, the Vice Chairman, or designee, is hereby authorized to execute any and all documents necessary to effectuate the intent of this Resolution.

#### **CERTIFICATION**

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the Council is composed of eleven (11) members, of whom eleven (11) constituting a quorum, were at a Regular Meeting hereto held on the 6th day of June, 2023, and that the foregoing Resolution No. JN-23-089 was duly adopted by a vote of FOR: 10; OPPOSED: 0; ABSTAINED: 0; of the Tribal Council pursuant to Article V, Section 1 (a) of the Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective, February 24, 1954.

  
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**Santana Dillon**  
**Council Secretary**  
**SAN CARLOS APACHE TRIBE**

**SAN CARLOS APACHE TRIBE OF ARIZONA**

**SOLID WASTE MANAGEMENT CODE**

**Enacted by Resolution No. JN-23-089**

**And**

**Ordinance No. 001-2023**

**ENACTED 06/06/2023**

**TITLE VI.**

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## **CHAPTER 1. GENERAL PROVISIONS**

### **Section 1.1 Authority and Purpose:**

This Solid Waste Management Code (the “Code”) is intended to:

- A. Provide for the establishment of a comprehensive solid and hazardous waste collection and disposal system to protect the health, safety, and well-being of residents within the jurisdiction of the San Carlos Apache Tribe (“Tribe”);
- B. Protect the health, welfare, political integrity, and economic security of the Tribe, its members, and other persons living within the exterior boundaries of the San Carlos Apache Reservation (“Reservation”);
- C. Protect the historic and cultural values and traditions of the Tribe in accordance with the Tribe’s Strategic Plan and goals of the Tribe to ensure the culture of the Tribe and to preserve the Reservation in harmony as a permanent homeland;
- D. Prevent degradation of the natural environment on the Reservation by minimizing impacts from the improper management and disposal of solid waste to the air, surface water, groundwater, wildlife, and land resources;
- E. Reduce littering and eliminate disposal of waste in open dumps;
- F. Encourage the development of a Reservation-wide system for curbside solid waste management;
- G. Encourage solid waste source reduction on the Reservation;
- H. Create uniform regulations for the storage, collection, disposal, treatment, and management of solid waste and hazardous waste on the Reservation; and

Comply with the requirements of federal and tribal law relating to the generation, storage, transportation, treatment, and disposal of solid waste on the Reservation.

### **Section 1.2 Findings:**

The San Carlos Council (“Council”) makes the following findings and declarations in support of this Code:

- A. The increasing volume and variety of solid waste being generated on or brought on the Reservation, combined with the inadequate and environmentally unsound existing methods of managing such waste, is leading to conditions that threaten the environment as well as public health, economy, safety and welfare of the Tribe, its members, and residents of the Reservation by contributing to land, air and water pollution. These

circumstances also negatively impact the Tribe's natural resources and contribute to deterioration of the environment and quality of life on the Reservation.

- B. The enactment of this Code is intended to protect and promote the health and welfare of the Tribe, its members, and residents and other persons on the Reservation; the character, culture, and historical significance of the Reservation; and the Reservation's natural environment.

### Section 1.3 Interpretation and Application of the Code

This Code shall be liberally construed and applied to ensure its purpose as expressed in Sections 1.1 and 1.2. Upon the effective date of this Code, it shall be unlawful for any person within the territorial jurisdiction of the San Carlos Apache Tribe as defined, to impound, divert, withdraw, otherwise make any use of or take any action affecting the use of land for solid waste unless the applicable provisions of this Code and its regulations have been complied with. No rights or privileges shall be recognized to generate, collect, transport, store and/or dispose of solid waste other than those accorded under this Code.

### Section 1.4 General Policy

The owner, agent, occupant, permittee, allottee or lessee of any residential/homesite area, business establishment, industry, or customary use or grazing area shall be responsible for the sanitary condition of said premises. No person shall place or deposit or provide the opportunity to place or deposit any solid waste on their premises or any other premises except in a manner prescribed by this Code.

### Section 1.5 Other Wastes

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

## **CHAPTER 2. DEFINITIONS**

### 2.1 Definitions

- A. "Administrator" means the Tribe's Department of Environmental Protection.
- B. "Active portion" means the part of a facility or unit that has received or is receiving solid waste and that has not been closed in accordance with 40 C.F.R. § 258.60.
- C. "Aquifer" means a geological formation, group of formations, or portion of a formation capable of yielding groundwater to wells or springs.

- D. “Collection” means the process of collecting solid waste for transporting.
- E. “Commercial facility” means any business, store, office, restaurant, warehouse, or other non-manufacturing facility of any ownership structure that operates to package, store, distribute, or market any product or service on the Reservation.
- F. “Construction and demolition debris” or “C&D debris” means uncontaminated solid waste resulting from the construction, remodeling, repair, and demolition of utilities, buildings, other structures, and roads that occur on the Reservation.
- G. “Enforcement officer” means an employee of the Tribe’s Department of Environmental Protection who is primarily responsible for implementing and enforcing this Code under the oversight of the Director of the Tribe’s Department. The Enforcement officer’s duties are specified in Section 2.2 of this Code.
- H. “Council” means the San Carlos Council, the governing body of the Tribe.
- I. “Discharge” means the accidental or intentional releasing, spilling, leaking, pumping, pouring, emitting, emptying, dumping or disposing of solid waste, pollutant or contaminants on to or into the environment, land or water on the Reservation.
- J. “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water on the Reservation so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into surface water or groundwater.
- K. “Disposal site” means a site, location, tract of land, transfer station, recycling center or premises used or intended to be used for partial or total solid waste disposal.
- L. “Groundwater wetland” means water below the land surface in a zone of saturation.
- M. “Hazardous waste” means a waste substance, material, smoke, gas, particulate matter, or combination thereof that:
  - (1) because of its quantity, concentration, or physical, chemical, or infectious characteristics, may either cause or significantly contribute to an increase in mortality or serious irreversible or incapacitating illness or pose a substantial present or potential hazard to human health, living organisms, or the environment when improperly handled, treated, stored, transported, or disposed of;
  - (2) is specifically defined to be hazardous or toxic by the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9601 et seq., or the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. § 9601, et seq., as either act may be amended from time to

time, and by any regulations promulgated thereunder, including but not limited to 40 C.F.R. Part 261;

- (3) asbestos containing material (“ACM”), mold, Per- and polyfluoroalkyl substances (“PFAS”) petroleum or its byproducts, lead, or polychlorinated biphenyls (“PCBs”), or Pesticides; or
  - (4) is specifically designated by the Tribe’s Enforcement officer as a hazardous waste.
- N. “Health advisor” means the Director of the Indian Health Service or the Director’s authorized agent. The Health Advisor has no regulatory authority and is therefore considered only as a consultant to the Tribe.
- O. “Household hazardous waste” means hazardous waste discarded by domestic households.
- P. “Household waste” means any solid waste (including, but not exclusive to, garbage, trash, animal carcass, and sanitary waste in septic tanks) derived from domestic households.
- Q. “Industrial solid waste” means solid waste generated by manufacturing or industrial processes that is not a regulated hazardous waste under subtitle C of the Resource Conservation and Recovery Act (RCRA).
- R. “Litter” means waste material that has been disposed of in a manner prohibited by this Code, including solid waste that is illegally dumped. “Littering” means the act of disposing of litter.
- S. “Mobile home, trailer or storage structures” means a portable habitable or formally habitable structure that was originally fitted with wheels to facilitate movement or transportation on public roads. Such wheels may or may not still be present on the structure.
- T. “Nuisance” means a condition that occurs as a result of the handling, treatment, composting, decomposing or disposal of solid waste that (1) is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and (2) adversely affects an entire community or neighborhood or a considerable number of persons within a community or neighborhood.
- X. “Open trash burning” means the combustion of solid waste without:
- (1) Control of combustion air to maintain adequate temperature for efficient combustion;

- (2) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and
  - (3) Control of the emission of the combustion products.
- U. “Operator” means the person(s) responsible for the overall operation of a solid waste facility or part of a solid waste facility.
- V. “Wildcat dump” means any facility or site on the Reservation where solid waste has been disposed of that is not a sanitary landfill authorized under this Code and compliant with the criteria prescribed in 40 C.F.R. Parts 257 and 258, as applicable.
- W. “Buried waste” means materials that are disposed of underneath the surface
- X. “Owner” means the person(s) who owns any interest in a solid waste facility or part of a solid waste facility.
- Y. “Permit” means an authorization and license issued by the Tribe’s Enforcement officer for the collection and/or transportation of solid waste, construction and/or operation of a solid waste facility on the Reservation, or other solid waste related activities as provided for in this Code.
- Z. “Permittee” means a person who is authorized by a permit issued by the Tribe’s Enforcement officer pursuant to this Code to engage in solid waste related activities.
- AA. “Person” means any individual, trust, firm, association, partnership, corporation or other business entity, political subdivision, government agency, municipality, public corporation, or other governmental entity, and includes the Tribe and its instrumentalities, members of the Tribe, non-member Indians, and non-Indians.
- BB. “Recycle” means to process a material or substance, including solid waste, in order to regain material for human use. “Recyclable material” means material capable of being recycled. “Recycle or reuse processing” means an operation designed to separate, shred, compress, or otherwise modify a recyclable material to facilitate the transport or resource recovery of the material.
- CC. “Regulated hazardous waste” means:
  - (1) Solid waste that is a hazardous waste as defined in 40 C.F.R. Part 261, that is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b), or was not generated by a conditionally exempt small quantity generator as defined in 40 C.F.R. § 261.5; and
  - (2) Solid waste specifically designated as a regulated hazardous waste in this Code or by regulation proposed by the Enforcement officer and approved by the Council.

- DD. “Remedial action” means action to permanently remedy a release or threatened release of a hazardous substance, pollutant, or contaminant into the environment.
- EE. “Reservation” means the San Carlos Apache Reservation and all lands of any kind within the exterior boundaries of the Reservation. The Reservation also includes all lands which are now or hereafter subject to the jurisdiction of the Tribe and all lands to which the Tribe holds legal or equitable title.
- FF. “Scavenging” means the unpermitted removal of solid waste from containers, vehicles, or solid waste management facilities or disposal sites.
- GG. “Solid waste” means any discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial mining, agricultural operations, and domestic and community activities, but does not include (a) sewage sludge, (b) solid or dissolved material in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or (c) source, special nuclear, or by-product material as defined by the Atomic Energy Act (AEA) of 1954, as amended. “Solid waste” includes special waste as defined in this Code.
- HH. “Solid waste facility” means all contiguous land and structures, other appurtenances, and improvements on the land used for the management, treatment, storage, or disposal of solid waste, such as a transfer station, a solid waste storage building, land on which solid waste processing or resource recovery systems are located, an incinerator, a surface impoundment site, a MSWLF subject to the criteria in 40 C.F.R. Part 258, or an inert landfill subject to the criteria in 40 C.F.R. Part 257. A solid waste facility may or may not be used solely for solid waste management.
- II. “Solid waste program” means the authorities, activities, and procedures in this Code, the Tribe's Integrated Waste Management Plan, and any other tribal laws or regulations that comprise the Tribe's system for regulating the collection, handling, transportation, disposal, treatment, and storage of solid waste, including the provisions of 40 C.F.R. Parts 257 and 258, which are incorporated herein by reference.
- JJ. “Special waste” means solid waste specifically designated as special waste in this Code or by regulation pursuant to the requirements of this Code. Special waste may require special storage, management, transportation, or handling under this Code.
- KK. “Storage” means the confining, containing, holding or stockpiling of solid waste for a limited period of time prior to collection, treatment, transportation, utilization, processing, recovery, or final disposal.
- LL. “Treatment” means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to



neutralize such waste or render such waste nonhazardous, safer for transport, amendable to recovery and storage, or reduced in volume.

MM. “Tribal Court” means the courts of the Tribe.

NN. “Tribe” means the San Carlos Apache Tribe.

### **CHAPTER 3. JURISDICTION AND IMMUNITY**

#### **Section 3.1 Jurisdiction and Applicability**

- A. This Code is adopted pursuant to the authority vested in the Council under the Constitution of the Tribe and the inherent sovereign authority of the Tribe.
- B. This Code is an exercise of the Tribe’s inherent sovereignty and civil authority over the conduct of its members and all other persons on all lands within the exterior boundaries of the Reservation to maintain the environment, natural resources, health, safety, welfare, political integrity, and economic security of the Tribe.
- C. Violations of this Code or any regulations adopted thereunder have the potential to seriously impact the environment, natural resources, public health, safety, welfare, political integrity, and economic security of the Tribe. Accordingly, this Code shall apply to:
  - (1) all persons within the exterior boundaries of the Reservation including but not limited to members, Indians who are members of other Indian Tribes, non-Indians, and any other person as defined in this Code;
  - (2) all commercial businesses, governmental facilities, private contractors, and all other entities and/or facilities that conduct business or operate within the Reservation; and
  - (3) all places and lands located within the exterior boundaries of the Reservation.
- D. Any person who uses or occupies land anywhere within the Reservation consents to the civil jurisdiction of the Tribe for the purpose of implementing and enforcing this Code.

#### **Section 3.2 Sovereign Immunity**

- A. Neither this Code, nor the Tribe's Solid Waste Program, nor any action or agreement of the Control Officer, the Director of the Department of Environmental Protection, nor their respective employees, agents, contractors, subcontractors, or other delegates shall in any respect constitute a waiver or modification of the sovereign immunity of the Tribe. , or its instrumentalities, officials, employees, or agents, unless expressly and explicitly provided otherwise in this Code or other tribal law, federal law, or written

agreement approved by the Council.

- B. The Tribe reserves the right to contest the jurisdiction of the federal courts in any citizens' suit filed against it or its instrumentalities, officials, employees, or agents under Section 7002 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6972.

#### **CHAPTER 4. TRIBE'S DEPARTMENT OF ENVIRONMENTAL PROTECTION**

##### Section 4.1

- A. The Tribe's Department of Environmental Protection shall be designated as the Lead Agency of the Tribe for all purposes under this Code which shall have the powers, duties, and responsibilities provided for in this Code.
- B. The Director of the Department of Environmental Protection shall identify and assign an employee within the Department to act as the Enforcement officer, who shall have the qualifications and duties described in Section 2.2 of this Code.
- C. The Director is authorized, with the consent of the Council, to hire and retain other Department staff and consultants, and acquire Department equipment and facilities, to the extent of available resources and if necessary for the proper implementation and enforcement of this Code.
- D. The Director shall be responsible for the day-to-day supervision and oversight of the Control Officer and any other employees and contractors retained by the Tribe to implement this Code.
- E. The Director may communicate and coordinate with federal, state, and local regulatory agencies regarding implementation of this Code and the Tribe's Solid Waste Program.
- F. The Director, with approval of the Council, may delegate their authority and duties established by this Code to other employees or contractors of the Tribe.
- G. Unless expressly and explicitly authorized by the Council, the Director is not authorized to consent to or otherwise subject the Tribe or any of its instrumentalities, officials, employees, or agents to non-Tribal jurisdiction or to in any respect waive the Tribe's sovereign immunity.

##### Section 4.2    Administrator

- A. As the administrator, the Tribe's Department of Environmental Protection is responsible for administering the San Carlos Apache Tribe Solid Waste Code within the territorial jurisdiction of the San Carlos Apache Tribe.

- B. The Administrator shall be responsible for ensuring that the provisions of this Code and regulations promulgated pursuant to it are enforced or carried out.

#### Section 4.3 Administrator Function

It shall be the responsibility of the Administrator to ensure that solid waste regulations will be adopted and put into effect within one calendar year from the date this Code is adopted and approved by the Council. Said regulations shall be approved by the Council following public comments and review. The Administrator shall provide to the public pertinent education materials and information regarding solid waste issues.

### **CHAPTER 5. SOLID WASTE PROHIBITIONS AND REQUIREMENTS**

#### Section 5.1 Responsible Parties

The past or present owner, agent, occupant, permittee, allottee or lessee of any residential or home site area, business establishment, medical facility, school, industry, customary use area or grazing area shall be responsible for the storage, collection, transportation and disposal of all accumulated solid waste by a method or methods prescribed in this Code and any federal or tribal regulations.

#### Section 5.2 Responsibilities of Property Owners, Residents, and Other Individuals

- A. The owner, agent, and occupant of every dwelling, residence, premises, business establishment, and solid waste facility on the Reservation shall be responsible for maintaining the sanitary and safe condition of said dwelling, residence, premises, business establishment, or solid waste facility.
- B. No person shall store, transport, treat, or dispose of solid waste on the Reservation except in a manner authorized by this Code.

#### Section 5.3 Prohibition on Dumping of Solid Waste

- A. It is unlawful for any person to dispose of any solid waste or hazardous waste anywhere on the Reservation except as expressly permitted in this Code.
- B. Upon adoption of this Code, any tract or site of land where solid waste is present anywhere within the Reservation is deemed to be permanently closed unless the site is specifically determined by the Enforcement officer to be in compliance with this Code and 40 C.F.R. Parts 257 and 258 as applicable and is permitted as a facility for the disposal of solid waste pursuant to Section 6.2 of this Code.
- C. Any tract or site of land where solid waste is present on the Reservation which has not been determined by the Enforcement Officer to be a permitted facility authorized to accept waste under this Code and in conformance with 40 C.F.R. Parts 257 and 258, as applicable, is an wildcat dump.

- D. It shall be unlawful for any person to throw or discharge solid waste into any creek, river, tributary, ditch, other water conveyance system, lake, pond, spring, arroyo, dry wash, or other Reservation water except as expressly permitted by this Code.
- E. Any person who is responsible for illegal dumping or littering on the Reservation shall be required to remove all solid waste disposed of illegally including any releases or leakage, restore the site to a condition acceptable to the Executive Officer, dispose of the solid waste at an approved disposal site, and may be subject to further enforcement action under this Code.

Section 5.4. Prohibition on Disposal of Regulated and Conditionally Exempt Small Quantity Generator Hazardous Waste

- A. The dumping or disposal of regulated hazardous waste, as defined under this Code, anywhere within the exterior boundaries of the Reservation, is expressly prohibited and unlawful.
- B. The collection, storage, transfer, or transportation of any regulated hazardous waste within the exterior boundaries of the Reservation shall be conducted in full compliance with this Code and federal law.
- C. The prohibitions in this section do not apply to household hazardous waste that is not a regulated hazardous waste and may lawfully be disposed of at a solid waste facility on the Reservation.

Section 5.5. Prohibition on Open and Buried Burning

It shall be unlawful for any person to burn or bury any solid or hazardous waste at a solid waste facility or anywhere within the Reservation, except as the Enforcement Officer specifically authorizes by permit issued pursuant to section 6.4 of this Code and the Tribe's Fire Code.

Section 5.6. Scavenging

Scavenging at solid waste facilities or collection vehicles on the Reservation is prohibited.

Section 5.7. Solid Waste Facility Construction, Operation, Maintenance, and Closure

All solid waste facilities within the Reservation shall be constructed, operated, maintained, and closed in accordance with all applicable federal and tribal laws and regulations, including the regulations found in 40 C.F.R. Parts 257 and 258 as applicable, and any permit issued for such facility pursuant to this Code.

The Enforcement Officer, in consultation with Director of the Tribe's Environmental

Protection Agency, may propose regulations to the Council that govern the construction, operation, maintenance, and/or closure of solid waste facilities.

Section 5.8. Prohibitions on Disposal at Solid Waste Facilities

A. Except as expressly authorized in this Code or by regulation proposed by the Enforcement Officer and adopted by the Council, the following solid waste materials shall not be disposed of on the Reservation or accepted at any solid waste facility on the Reservation under any conditions:

- 1) Radioactive wastes emitting over 5 picocuries/gram (pCi/gm).
- 2) Regulated hazardous wastes.
- 3) Infectious biomedical wastes which includes human/animal tissue or anatomical remains.
- 4) Animals or bedding exposed to infectious agents including animal fecal matter.
- 5) Sharps, needles and lancets that have not been contained for disposal in leak-proof, rigid, puncture-resistant containers such as cartons or metal cans which are taped closed or tightly lidded to preclude loss of contents under severe compaction conditions.
- 6) Bulk quantities of infectious-type wastes including blood, blood products, and body fluids.
- 7) Any materials containing asbestos.
- 8) Human waste, sewage, or sewage sludge.
- 9) Bulk liquids of any kind.
- 10) Polychlorinated biphenyls (PCBs).
- 11) Car batteries and other lead-acid batteries.
- 12) Used oil.
- 13) Metal drums or containers over 5 gallons.
- 14) Explosives.
- 15) Tires.
- 16) Prescription medications, pills, syringe.

- B. The Enforcement Officer may propose regulations to the Council that prohibit the disposal of other solid wastes at solid waste facilities on the Reservation as they deem necessary or appropriate.

#### Section 5.9. Maintaining a Public Nuisance

No person shall permit their property, residence, business site, or any site they occupy to become dangerous or hazardous, or to impair the safety, health, or comfort of the public as the result of their handling, storage, treatment, or disposal of solid waste.

#### Section 5.10. Misleading Representations

It is unlawful for any person to knowingly omit material information or make any false statement or representation in any label, record, report, or other document submitted pursuant to this Code or regulations promulgated thereunder.

### **CHAPTER 6. SPECIAL WASTES**

#### Section 6.1. Management of Special Wastes

All substances designated as a “special waste” in this Chapter or by regulation adopted by the Council shall be managed, stored, treated, and disposed of in accordance with the applicable provisions of this Chapter and applicable regulations.

#### Section 6.2. Construction and Demolition Debris

- A. Every construction, demolition, and renovation project within the Reservation (“Covered Projects”) shall comply with this Section.
- B. The proponent of any Covered Project (“Applicant”) shall not dispose of any construction and demolition debris on the Reservation. Instead, the Applicant shall transport all and any construction and demolition debris off the Reservation at a certified landfill.
- C. However, any construction or demolition debris that are recyclable may be thus reused for any project as determined and approved by the Tribe through the Enforcement Officer.

#### Section 6.3. Pesticide Waste

Every person who handles surplus agricultural pesticides, materials containing pesticide residues, and pesticide containers shall comply with this Code and 40 C.F.R. Parts 261 and 262.

Pesticide containers shall be drained or emptied according to label directions and power or triple-rinsed before processing or disposal in accordance with 40 C.F.R. § 261.7. All pesticide applications on the Reservation shall be performed in accordance with the federal Insecticide,

Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136 *et seq.*

Section 6.4. Septic Tank Waste

No septic tank waste shall be disposed within the Reservation except only in areas designated by the Tribe.

Section 6.5. Liquids

No person may dispose of any liquid on the Reservation. Disposal of liquid must be transferred and disposed off the Reservation at a certified disposal location.

Section 6.6. Wrecked, Junked, or Unserviceable Vehicles

- A. It is unlawful to store, collect, or dispose of junked, wrecked, or unserviceable vehicles or farm implements (collectively “junked vehicles”) on any residential, business, or public site within the Reservation in a manner that causes or creates a public nuisance or threatens public health or safety.
- B. No person shall store or keep any junked vehicle on any residential, business, or public site within the Reservation.
- C. Any junked vehicle abandoned on the Tribe’s sites and/or public sites such as roads, streets, alleys, highways, or public parking areas for more than 48 hours may be impounded and towed away at the direction of the Enforcement Officer or the Tribe’s law enforcement to an impoundment area.

Section 6.7. Abandoned Buildings, Mobile Homes, and Trailers

Any structure, building, mobile home, or trailer on the Reservation that is uninhabited for more than 180 calendar days and is determined to be unsafe, unfit for habitation, junked, partially disassembled, wrecked, or non-operative, may be declared a solid waste by the Enforcement Officer. Once declared a solid waste, the Enforcement Officer shall notify by certified mail the lessee or permittee to notify to remove. If the owner fails to comply or remove, or if the owner is not located, the solid waste may be removed and disposed.

Section 6.8. Scrap Tires

- A. No person may store more than 20 scrap tires or more than 1,000 pounds of scrap tires, whether whole or shredded on any residential, business, or any site within the Reservation except pursuant to a permit issued by the Enforcement Officer, which shall be granted only if the applicant demonstrates that:

- 1) storage will be temporary;

- 2) storage will not create a nuisance;
  - 3) access to the storage area will be controlled;
  - 4) the storage area will be accessible to fire control equipment; and
  - 5) storage will comply with this Code and all other applicable tribal and federal laws.
- B. No person may collect or transport scrap tires except pursuant to a solid waste transportation permit issued by the Enforcement Officer. However, no permit shall be required under this Code for the occasional collection or transport of less than 500 pounds of scrap tires if such activity is not in furtherance of a commercial enterprise.
- C. All scrap tires collected or transported on the Reservation shall be promptly transfer off the Reservation for disposal or recycle.
- D. For the purposes of this Section, a “scrap tire” is a tire that is no longer suitable for its originally intended purpose due to wear, damage, or defect.

#### Section 6.9. Asbestos

- A. No asbestos or asbestos-containing materials may be disposed of within the Reservation.
- B. Prior to transportation of friable asbestos-containing materials or items, such materials or items shall be wetted, placed in leak-tight containers, and properly labeled. Containers containing friable asbestos-containing materials or items shall be carefully handled.
- C. Handling of asbestos or asbestos-containing materials or items shall be performed by certified asbestos personnel.

#### Section 6.10. Medical Waste

- A. Waste from medical and dental clinics on the Reservation, including infectious wastes, shall be stored in containers with disposable plastic liners with special identification and stored in a manner not accessible to the public and in an area not harmful to the environment.
- B. Medical waste that has edges or projections capable of cutting or piercing the skin (i.e., “sharps”) may not be disposed of on the Reservation. Instead, medical waste shall be transported and delivered to the proper medical facility.
- C. Disposal of medical wastes shall be conducted in compliance with the applicable requirements of this Code and all other applicable tribal and federal laws.

#### Section 6.11. Used Oil and Lead-Acid Batteries



- A. No used oil or lead-acid batteries may be disposed of within the Reservation.

#### Section 6.12. White Goods

- A. No white goods may be disposed of within the Reservation.
- B. For purposes of this Section, “white goods” are major household appliances such as refrigerators, stoves, ovens, freezers, dishwashers, clothes washers and dryers, and swamp coolers, water heaters.

#### Section 6.13. Household Waste

Any household waste shall be properly disposed of with garbage delivery services available on the Reservation or transferring off the Reservation.

#### Section 6.14. Hazardous Waste

- A. All hazardous wastes, except those excluded from regulation under 40 C.F.R. § 261.4(b), shall be generated, managed, stored, treated, or transported in compliance with this Code and the following requirements:
  - 1) A generator who treats or stores hazardous waste on-site must comply with 40 C.F.R. Part 262 with respect to that waste.
  - 2) Persons transporting regulated quantities of hazardous waste within the Reservation must comply with the standards and requirements of 40 C.F.R. Part 263 if the transportation requires a manifest under 40 C.F.R. Part 262.
  - 3) The standards of 40 C.F.R. Part 264 apply to owners and operators of all facilities which treat or store hazardous waste, except as specifically provided otherwise in this Code or 40 C.F.R. Part 261.
  - 4) The disposal of hazardous waste on the Reservation is prohibited.
  - 5) Any person seeking to recycle or reuse hazardous wastes on the Reservation shall comply with 40 C.F.R. Part 266.
  - 6) Universal wastes, including batteries, pesticides, mercury containing equipment or lamps as described in 40 C.F.R. Part 273, must be managed in compliance with 40 C.F.R. Part 273.

#### Section 6.15. E-Waste

- A. It is unlawful to dispose of any e-waste on the Reservation.

- B. For the purpose of this Section, the term “e-waste” means any household or business item that contains circuitry or electrical components with either power or battery supply including, but not limited to, televisions, computers and computer components, laptops, tablets, mobile phones, video game consoles, home entertainment systems, household electronics-microwaves, toaster ovens, a/c units, electric treadmills, flashlights, coffee makers, electric fans, electric lamps, electric heaters, radios.

#### Section 6.16. Paint Containing Lead

Lead-based paints and containers for lead-based paints shall be managed as hazardous waste.

#### Section 6.17. Fireworks

- A. Any person using fireworks on the Reservation shall be responsible for the safe removal and disposal of all solid waste generated from such activity. Used fireworks and firework debris shall be soaked in water for at least 15 minutes, double-wrapped in plastic bags, and disposed of with household trash.
- B. Solid waste generated from a public or commercial display of fireworks (including particulate matter and debris from ignited and un-ignited pyrotechnic material such as aerial shells, stars, paper, cardboard, wires, and fuses) shall not be disposed of on the Reservation.
- C. Any usage or disposal of fireworks shall comply with the Tribe’s Fire Code.

#### Section 6.18. Other Special Waste

The Enforcement Officer, in consultation with the Director of the Tribe’s Department of Environmental Protection, may propose regulations to the Council that designate additional substances as special wastes and prescribe additional rules for the management, transport, treatment, storage, and/or disposal of any substance designated as a special waste.

### **CHAPTER 7. LICENSING**

#### Section 7.1. Permits Generally

- A. Except as otherwise provided in this Code, no person may (1) construct or operate any solid waste facility on the Reservation, (2) engage in the commercial collection or transportation of solid waste, or (3) engage in other solid waste related activities except pursuant to a permit issued by the Enforcement Officer authorizing such activity.
- B. Any permit issued pursuant to this Chapter shall include a permit condition specifying that the permittee has consented to the Tribe’s civil regulatory and adjudicatory jurisdiction for the purposes of enforcing the terms of the permit and the requirements of this Code.

- C. A permit issued pursuant to this Chapter is valid only upon signature by the permittee expressing acceptance without qualification of all terms and conditions in the permit.

Section 7.2. Solid Waste Facility Permits

- A. Any person authorized to conduct business on the Reservation may submit an application to the Enforcement Officer for a permit to construct and/or operate a solid waste facility on the Reservation, which shall demonstrate that the applicant will comply with this Code, any regulations promulgated pursuant to this Code, other applicable tribal and federal environmental standards and criteria, and applicable orders issued by the Enforcement under authority of this Code. The burden of proof shall rest on the applicant to demonstrate compliance with all such tribal and federal solid waste criteria and requirements.
- B. A permit application submitted pursuant to this Section shall contain the following information:
- (1) A legal description of the site of the proposed solid waste facility.
  - (2) A title report showing ownership of the site of the proposed solid waste facility and all encumbrances, covenants, conditions, restrictions, reservations to title, easements, and rights of way on or across the site.
  - (3) Proof that:
    - (i) The applicant is the owner or otherwise holds a sufficient leasehold or other interest in the proposed site or other lawful authorization from the owner of the site authorizing use of the site for purposes set forth in the application;
    - (ii) Any taxes, fees, and other payments with respect to the site are current; and if the site is trust or restricted land, the applicant has received all legally-required approvals of any leasehold or other use rights in the site from the Secretary of Interior or his authorized delegate. The applicant shall include in the application a certified copy of such lease or other use authorization with all exhibits and attachments.
  - (4) A map and aerial photograph showing the proposed facility site and all land use and political jurisdictions within five miles of the proposed site. The map and aerial photograph shall be of sufficient scale and resolution to show all homes, airports, wells, water ways, topography, roads, and other objects that may be affected.
  - (5) A report describing the following:

- (6) The population and area to be served by the proposed site;
- (7) The life expectancy of the proposed facility;
- (8) The geological formations, aquifer characteristics, and groundwater elevations below the site and reliable data on existing groundwater quality within 2,000 feet of the site;
- (9) The source and characteristics of any cover material to be used;
- (10) Topography of the site and drainage patterns; and
- (11) Location of the 100-year flood plain in relation to the site. A general design and operations plan for the facility certified by a professional engineer that identifies how the proposed solid waste facility will meet the applicable requirements of this Code and 40 C.F.R. Parts 257 and 258.
- (12) A financial statement estimating the cost of construction, operation, closure, and post-closure maintenance of the proposed solid waste facility, as applicable. The financial statement shall also explain the applicant's financial condition, the applicant's net worth, and the ability of the applicant to fund the continued operation, closure, and post-closure maintenance of the site in compliance with this Code and the applicable requirements of 40 C.F.R. Parts 257 and 258.
- (13) A statement certified as to its truth and accuracy signed by the applicant and notarized containing the following information:
- (14) The name, address, social security number, and phone number of all persons owning or holding an interest in the applicant company of 5% or more;
- (15) The name, address, social security number, and phone number of all officers, directors, or partners of the applicant company;
- 17) A statement that no officer, director, partner, or holder of an interest of five percent (5%) or more of the applicant company has ever been convicted of a felony and that no felony charges are currently pending;
- (17) A statement that discloses in detail any charge, complaint, fine, order, decree, statement, or finding of "no contest" for violation of any tribal, federal, state, county or municipal environmental or health laws, regulations, permits, or conditions against any officer, director, partner or holder of an interest of five percent (5%) or more within the past five years;
- (18) A description of any judgments rendered against any officer, director, partner, or holder of an interest of five percent (5%) or more in the applicant in the five years

preceding the date of the application; and

- (19) A description of any bankruptcy or insolvency proceedings instituted by any officer, director, partner, or holder of an interest of five percent (5%) or more in the applicant occurring in the five years preceding the date of the application.
- C. Within 30 business days of receipt of an application submitted pursuant to this Section, the Enforcement Officer shall determine whether such application is complete.
- E. The Enforcement Officer shall make a decision on any permit application submitted pursuant to this Section within 60 days, unless the Enforcement Officer determines in writing that additional time is necessary to gather additional information on the application, to conduct environmental studies related to the application, or to require further analysis related to the application.
- F. The Enforcement Officer shall not issue a solid waste facility construction and/or operation permit under this Section unless he or she finds, on the basis of information contained in the application and otherwise available to the Enforcement Officer, that the applicant will comply with this Code; the requirements at 40 C.F.R. Parts 257 and 258 as applicable; and all applicable tribal and federal law, rules, regulations, technical standards, criteria, guidance documents, and permit conditions.
- G. The Enforcement Officer may issue a solid waste facility construction and/or operation permit under this Section only if he or she finds that the applicant has the financial and technical ability to construct and/or operate, close, and post-close the solid waste facility as required by this Code and federal law.
- H. In issuing any permit under this Section, the Enforcement Officer may impose permit conditions that are more stringent than those required in this Code or federal law if deemed appropriate or necessary. The Enforcement Officer shall not issue a solid waste facility construction and/or operation permit unless he or she has determined that the permittee will ensure long-term protection of the Tribe's public health, environment, and natural resources.
- I. A solid waste facility operation permit shall be valid for the operation, closure, and post-closure period designated and required for such facility, but such permit is subject to revocation, suspension, or modification as provided in this Chapter.

### Section 7.3. Permits for the Collection and/or Transportation of Solid Waste

- A. Any person authorized to conduct business on the Reservation may submit an application to the Enforcement Officer for a permit to collect and/or transport solid waste on the Reservation, which shall demonstrate that the applicant will comply with this Code, any regulations promulgated thereunder, applicable tribal and federal environmental standards and criteria, and applicable orders issued under authority of this Code. The burden of proof shall rest on the applicant to demonstrate compliance with all tribal solid

waste criteria and requirements.

B. An application for a permit under this Section shall include:

- (1) a description of the number and type of the vehicles and related mechanical and other equipment to be used by the applicant;
- (2) a site evaluation report describing the location and physical characteristics of the place or places, including uses of adjoining properties, where the applicant will store or maintain any vehicles used to transport solid waste and related equipment, if located on the Reservation;
- (3) a description of the practices, technologies, and procedures that will be employed to prevent leakage, excessive noise, odors, and other releases during the collection, transport, or storage of solid waste and the capability to respond to any such releases;
- (4) a description of a training program for employees on how to respond to releases of solid waste, recognize hazardous or improper wastes, and skills necessary for the safe operation of collection and transportation equipment and related facilities; and
- (5) such other information as the Enforcement Officer deems as appropriate or necessary.

C. As conditions for the issuance of a permit under this Section, the Enforcement Officer shall require:

- (1) that every vehicle operated by permittee and his or her employees/contractors to collect or transport solid waste be conspicuously marked to identify the solid waste transported and its principal hazard, the trade name of the collector/transporter, and the number of the solid waste transportation permit issued pursuant to this Section;
- (2) that all vehicles and drivers permitted to collect and/or transport solid waste be licensed by the State of Arizona and comply with all safety and insurance requirements of the State of Arizona; and
- (3) that the permittee make an annual report to the Enforcement Officer describing the number and type of containers collected during the previous year, the volume (and weight if available) and nature of solid waste collected and/or transported, the place and manner in which such solid waste was disposed, the number and nature of any releases or spillage and responses taken, and such other information as the permit may require.

D. Within 30 days of receipt of an application submitted pursuant to this Section, the

Enforcement Officer shall determine whether such application is complete. The Enforcement Officer shall make a final decision on any permit application submitted pursuant to this Section within 45 days of the Enforcement Officer's determination that the application is complete unless the Enforcement Officer determines in writing that additional time is necessary to gather additional information on the application, to conduct environmental studies related to the application, or to require further analysis related to the application.

- E. A permit issued pursuant to this Section shall have a term of one year, and shall automatically renew for additional one-year terms, unless the Enforcement Officer finds that permittee has violated the requirements of his or her permit or this Code, or the Council determines that the collection and/or transport services authorized by the permit are no longer needed. The Enforcement Officer revoke, suspend, or modify any permit issued.
- F. In issuing any permit under this Section, the Enforcement Officer may impose permit conditions that are more stringent than those required in this Code or federal law if deemed appropriate or necessary. The Enforcement Officer shall not issue a solid waste collection or transport permit unless he or she has determined that permittee will ensure long-term protection of the Tribe's public health, environment, and natural resources.
- G. Reservation residents are not required to obtain a permit under this Code for the non-commercial transport of personally generated solid waste to a solid waste facility on or off the Reservation. However, any vehicle used for non-commercial personal transport of solid waste must be loaded and moved in such a manner that the contents will not fall, leak, or spill from the vehicle. Any releases from such vehicles are the responsibility of the vehicle owner and operator and must be cleaned up within 24 hours of such release. Failure to comply may result in further enforcement action under this Code.

#### Section 7.4. Storage System

Prior to the creation or modification of a system for the storage, collection, transportation, disposal, or recycling of solid waste, the person operating or proposing to operate the system shall submit a Solid Waste Management Plan to the Enforcement Officer for written approval in order to obtain the necessary license. All other Factors being equal, preference may be given to those operators who include waste minimization and/or recycling provisions in their solid waste management plans.

#### Section 7.5. Existing Operators

Any person who is operating a system for the storage, collection, transportation, disposal or recycling of solid waste shall submit a current Solid Waste Management Plan for the written approval of the Enforcement Officer and obtain the necessary license to operate within 90 days of the enactment of this Code.



#### Section 7.6. Required Information

The applicant shall submit the following to the Administrator for written approval:

- A. A completed application form as provided by the Administrator .
- B. A Solid Waste Management Plan which shall include all information required by the Administrator .

#### Section 7.7. Application Review

Upon receipt of the application, the Administrator shall review the Solid Waste Management Plan and issue a written response within 30 days. The applicant shall have the opportunity to remedy the Plan for deficiencies, or request an appeal.

#### Section 7.8. Application Approval

The approval of a Solid Waste Management Plan and application does not relieve the applicant of responsibility for compliance with all applicable provisions of this Code and its regulations.

#### Section 7.9 License Fees

Upon approval of the application and plan, the Administrator shall issue a license to operate. The initial fee for this license shall be negotiated and determined by the Applicant and the Tribe.

#### Section 7.10 Storage, Collection, Transportation and Disposal

- A. All solid waste shall be transported off the Reservation and disposed of in an EPA-approved landfill. This may be accomplished by contracting with an operator or hauler licensed in accordance with this Code, or the owner/generator of the solid waste may haul his or her own solid waste to an off-reservation certified landfill.
- B. No dumping of solid waste will be permitted on the Reservation. Violators will be subject to the provisions of this Code.

#### Section 7.11 Contractual Compliance.

Contracting for the storage, collection, transportation and disposal of solid waste does not relieve the solid waste generator/handler from the responsibility of complying with this Code and its regulations.



### Section 7.12   Recycling

Subject to available funding, the Enforcement Officer shall maintain a system for the reuse and recycling of solid wastes on the Reservation, including curbside pickup of recyclable materials.

### Section 7.13   Material Separation

The Enforcement Officer is authorized to require separation of materials prior to collection or acceptance at a solid waste management or transfer facility.

## **CHAPTER 8. INSPECTIONS**

### Section 8.1   Inspections

The Administrator:

- A. Shall have the power to enter at reasonable time any property located on the Reservation for the sole purpose of inspecting, monitoring and investigating conditions.
- B. Shall inspect solid waste facilities or transfer stations at least once every 12 months or as often as the Administrator deems it necessary for the protection of the health, safety, welfare and the environment of the Tribe.

## **CHAPTER 9. APPEAL PROCESS**

### Section 9.1   Hearing

- A. The Tribe's Environmental Protection Agency Committee ("EPA Committee") shall hear appeals concerning actions taken by the Administrator and shall have the power to issue orders that promulgate this Code.
- B. Any person ("petitioner") aggrieved by an action taken by the Administrator may request in writing a hearing before the EPA Committee. The petitioner shall have 10 working days after receipt of written notice or from the date of the Administrator's action to submit a written request for a hearing. Unless a written request for hearing is made during the required time period, the decision of the Administrator shall be final.
- C. If a request is made within the required time period, the EPA Committee shall hold a hearing within 30 working days. The EPA Committee shall notify the petitioner by certified mail of the date, time, and place of the hearing location within the territorial jurisdiction of the Tribe.
- D. During the hearings, the Tribe's Rules of Civil Procedure and the Rules of Evidence shall not apply, but the hearing shall be conducted so that all relevant views, arguments and testimony are amply and fairly presented without undue prejudice. The EPA

Committee shall allow the Administrator and the petitioner to call and cross-examine witnesses and submit all relevant evidence.

- E. The EPA Committee shall adopt Rules and Procedures for conducting hearings consistent with due process and Section 9.1(B)-(D) of this Code.

## Section 9.2 Decisions

Based upon the evidence presented at the hearings, the EPA Committee shall sustain, modify or reverse the action of the Administrator. The EPA Committee shall render a written decision within fifteen working days. This decision shall include the reasons for the decision. A copy of the decision shall be sent to the petitioner. The EPA Committee's decision shall be the final decision and not subject to appeal to the tribal court.

# **CHAPTER 10. UNLAWFUL ACTS**

## Section 10.1 Noncompliance

Any person violating any provision of this Code or its regulations shall be subject to any or all of the sanctions in Section 10.4.

## Section 10.2 Obstruction of Persons in the Performance of Their Duties

The willful obstruction of or interference with any person in the performance of their duties under this Code shall be unlawful, including, but not exclusive to, interference with law enforcement officials and/or staff of the Tribe's Department of Environmental Protection.

## Section 10.3 Misstatements of Material Facts

Any known misstatements of material fact by any person or entity when providing information required by this Code shall be unlawful.

## Section 10.4 Sanctions for Code Violations

### A. Criminal Prosecution

- a) Any person who commits one or more violations of the provisions of this Code or its regulations shall be subject to criminal prosecution in the Tribal Courts of the San Carlos Apache Tribe.
- b) Any person who is subject to the Tribe's criminal jurisdiction and who is found to be in violation of this Code shall be subject to a fine not less than three hundred dollars (\$300.00) and/or imprisonment for a period not to exceed six months and/or a similar period of community service. Each violation shall be treated as a separate offense.

- c) Any person found to be guilty of repeat violations shall be fined not less than \$1,000.00 and/or imprisoned for a period not to exceed one year and/or similar period of community service.

## B. Civil Proceedings

In addition to criminal prosecution, the Tribe's Department of Justice ("DOJ") is authorized to initiate any or all of the proceedings described below.

- a) Exclusion:

Any person shall be subject to exclusion from the Reservation for any violation of the provisions of this Code pursuant to the Tribe's Exclusion Code.

- b) Fines:

Any person who violates any provision of the Code may be assessed a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation, unless the person cited is given notice and opportunity for a hearing on such violation and actually remedies the violation.

- c) Costs:

In addition to the above proceedings, the DOJ is authorized to initiate proceedings separately or in connection with either a criminal, civil or exclusion proceeding brought under this Code for any damages caused to the lands or other resources of the Tribe resulting from any violations, including, but not exclusive to, payment of costs of all associated remedial action taken, for any administrative costs incurred as a result of this matter and for the reasonable value of attorney time and expenses associated with such proceedings.

- d) Injunctions:

If the violation of any of the provisions of this Code or any rules and regulations promulgated pursuant thereto are determined to be a nuisance or a hazard to the health and safety of humans or harmful to the environment, such activity may be restrained or enjoined at any time by the Tribal Courts; provided it can be shown that immediate and irreparable injury, loss or damage will result if such violation or activity is not restrained or enjoined. The Attorney General of the Tribe, or his or her representative, upon request of the Administrator, shall begin an action to obtain and order to restrain or enjoin any such violation.

- e) Civil Regulatory Sanctions:

The Civil Regulatory Sanctions in these sections may be amended by the Administrator with the approval of the Council.

#### Section 10.5. Enforcement

- A. The Tribe's Law Enforcement agents from the Police Department and the Recreation and Wildlife Department are authorized to investigate any violations of this Code and/or issue citations. Violators will be subject to the provisions of this Code.
- B. Any individual who witnesses or suspects violations of this Code may file a report with the Administrator. After review, the Administrator may refer the report to the Tribe's Police Department for investigation.

#### Section 10.6 Responsibility

Any person engaged in any aspect of solid waste management shall be responsible for the acts of each person under their employment or supervision. Reliance on representations by any officer, agency, employee or subcontractor shall not constitute as a defense.

### **CHAPTER 11. OTHER PROVISIONS**

#### Section 11.1. Use of Funds

Monies derived from fees and penalties under this Code shall be available to the Administrator solely for the administration and implementation of this Code and its regulations. Such funds shall be deposited into a duly established revolving account and expended in accordance with the revolving account plan of operations pursuant to an approved budget. Any monies contained in said revolving account at the end of the fiscal year shall not revert to the general fund and shall remain available for appropriation as provided in this Section.

#### Section 11.2 Laws and Regulations

The owners and/or operators shall comply with all applicable laws, rules and regulations of the San Carlos Apache Tribe and of the Indian Preference Act.

#### Section 11.3 Conflicting Authority

The San Carlos Apache Tribe Solid Waste Management Code and its regulations govern storage, transportation, collection, disposal and associated operations of solid waste by residences, businesses, institutions, recreational areas and industries on and/or affecting land of the San Carlos Apache Tribe. This Code and its regulations supersede any and all authority to the contrary. Wherever other codes, acts or resolutions adopted by the San Carlos Council and its Committees may be read to confer concurrent authority, this Code shall govern.

#### Section 11.4 Severability

If any provision of this Code is held invalid by any court, the invalidity shall not affect other provisions of this Code.