

Bay Mills Indian Community

Solid and Hazardous Waste Ordinance

Section 1. General Provisions

- 1.01 Purpose. The purpose of this ordinance is to preserve the environment, economy, and public health of the Tribe for the next seven generations by protecting the air, water, and land from solid and hazardous waste pollution, and by targeting, curtailing, and controlling pollution within its territory, including solid and hazardous waste dumping. This enactment also encourages recycling and participation in special waste collection events.
- 1.02 Jurisdiction. This ordinance shall apply to the conduct of all persons within Tribal lands, including Tribal employees, agents, and contractors.
- 1.03 Severability. If any provision of this ordinance, or any application of its provisions to any person or circumstance, is held invalid, the remaining provisions or applications shall not be affected and shall remain in effect and enforceable.
- 1.04 Definitions. The following definitions shall apply:
- a. Brownfield means a property, the expansion, redevelopment, or reuse of which may be complicated or hindered by the presence or potential presence of a hazardous substance, pollutant, or contaminant
 - b. Bulky Waste means large, bulky items of refuse, such as appliances, car bodies, construction and demolition material, furniture, mattresses, trees and stumps, white goods, and other oversized wastes which cannot be handled by normal solid waste processing, collection, and disposal methods.
 - c. Contaminant means a biological, chemical, physical or radiological substance that becomes harmful for humans or living organisms, when accidentally or deliberately introduced to air, water, soil or food.
 - d. Cultural Resources means movable or immovable objects, artifacts, sites, structures, canals, features and landscapes that have archaeological, paleontological, historical, architectural, religious, ceremonial, aesthetic, or other cultural significance, whether located above or below ground, or under water.
 - e. Disposal means the discharge, abandonment, deposit, injection, dumping, spilling, leaking, or placing of any solid, hazardous, or bulky waste into or on any soil, air, or water, regardless of whether such disposal is in accordance with this ordinance.
 - f. Electronic Waste/E-waste or Universal Waste includes but is not limited to:
 - i. Common batteries (AA, AAA, C cells, D cells, 9 Volt and button batteries).
These may contain a corrosive chemical that can cause burns or toxic heavy

metals like cadmium.

- ii. Fluorescent tubes and bulbs and other mercury-containing lamps. *These may contain mercury vapor that may be released into the environment when broken.*
 - iii. Electronic devices such as televisions and computer monitors, computers, printers, VCRs, cell phones, telephones, radios and microwave ovens. *These devices may contain heavy metals like lead, cadmium, copper and chromium.*
 - iv. Mercury containing devices including light bulbs, thermostats, switches, thermometers, dental amalgam, pressure and vacuum gauges, novelty items, counterweights and dampers, certain rubber flooring and gas flow regulators. Non-empty aerosol cans that contain hazardous materials or flammables, like butane, as propellants for products like paint.
- g. Environmentally Preferable Products are products that have a lesser or reduced negative effect on human health and the environment when compared with competing products that serve the same purpose. This comparison may consider raw material acquisition production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product of service.
- h. Executive Council means the five elected individuals exercising the powers and duties delegated to them from the General Tribal Council of the Bay Mills Indian Community.
- i. Facility means any physical building/compound, department building or business on the Reservation.
- j. Green Waste (also called agricultural waste) is biodegradable waste that can be composed of garden or park waste, such as grass or flower cuttings and hedge trimmings, as well as domestic and commercial food waste.
- k. Hazardous Waste means:
- i. Any substance that the department determines, on a case by case basis, poses an unacceptable risk to the public health, safety, or welfare, or the environment, considering the fate of the material, dose-response, toxicity, or adverse impact on natural resources.
 - ii. Hazardous substance as defined in the comprehensive environmental response, compensation, and liability act, 42 USC 9601 to 9675.
 - iii. Hazardous waste as defined in 40 CFR § 261.3.
- l. Household Hazardous Waste means materials generated in household quantities by individuals on the premises of a temporary or permanent residence, composed primarily of materials typically found in consumer products, and possessing characteristics such as flammability, corrosivity, reactivity, or toxicity, that would be

considered a Hazardous Waste if generated by a business. Examples of Household Hazardous Waste include, but are not limited to, solvents, oil based paints and stains, aerosols, corrosives, pesticides, waste oil, auto fluids, batteries, light bulbs, and small quantities of Electronic Waste/E-Waste or Universal Waste.

- m. Landfill means any discrete area of land or an excavation where solid waste is disposed via confinement with adequate controls to restrict access to or movement of such waste.
- n. Littering means the open dumping of any small amount (less than five pounds) of Solid Waste, such as by discarding restaurant waste from a car window.
- o. Natural Resources include but are not limited to land (surface and subsurface), fish, wildlife, biota, air, surface water, groundwater, drinking water supplies and any other resource owned, managed, held in trust for, or controlled by Bay Mills Indian Community.
- p. Open Burning means any burning conducted in such a manner that combustion air is not effectively controlled and that combustion products are not vented through a stack or chimney, including but not limited to burning conducted in open outdoor fires, common burn barrels, and backyard incinerators.
- q. Open Dumping means the depositing of solid waste or hazardous waste at any facility or site which is not a sanitary landfill or waste transfer station, or depositing solid waste and hazardous waste outside of hours of operation at a landfill or waste transfer station.
- r. Person means any public or private corporation, company, partnership, firm, association or society of persons, or other legal entity, including governmental entities, as well as a natural person.
- s. Pollution means the unauthorized disposal of any solid waste or hazardous waste into the air, land (surface and subsurface), surface water or groundwater.
- t. Public Nuisance means a condition that occurs because of unreasonable handling, treatment, composting, or disposal of solid waste, which causes one or more of the following: (1) affects human health or safety; (2) interference with the comfortable enjoyment of life or property; (3) offensive effects to the senses of a community or neighborhood.
- u. Reservation means all the lands within the exterior boundaries of the Bay Mills Indian Reservation as presently defined or modified in the future. This Ordinance applies to the Tribe's Reservation and its Tribal Trust Resources.
- v. 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.
- w. Release means any spilling, leaking, pumping, pouring, emitting, emptying,

discharging, injecting, escaping, leaching, dumping or disposing of solid waste, oil, or hazardous substances into the environment. The term "release" also includes, but is not limited to the abandonment or disposal of waste or the abandonment or discarding of barrels, containers and other receptacles containing any hazardous substance, oil or threat thereof.

- x. Removal means the cleanup or removal of solid waste, oil or a hazardous substance from a facility or the environment to address an immediately apparent threat to public health, safety, welfare, or the environment. It shall also mean the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize or mitigate damage to the public health, safety, welfare or to the environment, that may otherwise result from a release or threat of release.
- y. Response Action means to clean up hazardous substances at a site that presents an imminent threat to human health and the environment.
- z. Solid Waste means any discarded material such as garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material resulting from residential, industrial, commercial, mining, agricultural operations, and community activities.
- aa. Storage means the confining, containing, holding, or stockpiling of solid waste for a limited period of time prior to collection, treatment, transportation, use, processing, recovery, or final disposal.
- bb. SWMP means the Tribal Solid Waste Management Plan which was adopted in May 2021 and updated in July 2022. This Ordinance enforces the SWMP.
- cc. Toxic Waste means waste material that can cause death, injury or birth defects to living creatures or may cause environmental contamination leading to adverse effects.
- dd. Transfer Station means a site approved by the Tribe for the collection and/or disposal of solid waste. A transfer station may be fixed or mobile.
- ee. Tribal Court means the Bay Mills Indian Community Tribal Court.
- ff. Tribal Lands means all lands under the jurisdiction of Bay Mills Indian Community.
- gg. Universal Waste means batteries, pesticides, mercury-containing equipment, and bulbs (lamps). See Electronic Waste definition.
- hh. Waste means any substance which is discarded after primary use, or is worthless, defective and of no use.
- ii. White Goods means refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, clothes dryers, and other similar domestic and commercial large appliances.

- 1.05 Applicability. This ordinance shall be applicable to any person on Tribal lands. Any person who has generated, transported, or received, or by contract or agreement arranged for the recovery, transport, or disposal of any Solid or Hazardous Waste is subject to this Ordinance and is responsible for the proper storage, removal, transport, and disposal of such waste at a transfer station, permitted landfill, or other approved site.
- 1.06 Authority to Administer.
- a. The Bay Mills Indian Community Administration shall be the primary entity tasked with administering this Ordinance. The Administration, along with the Bay Mills Police Department and Conservation Department, will be empowered to enforce the Ordinance.
 - b. The Tribe may collect the costs incurred by its Departments in enforcing this Ordinance against any person found to be in violation of the Ordinance, at the Tribe's sole discretion. Such costs shall be documented in invoices issued by the Administration to violators.
- 1.07 Compliance with other Laws. Compliance with this Ordinance does not obviate or excuse the need to comply with other Tribal, local, state, and federal laws. Violations of this Ordinance may have additional penalties under other laws.
- 1.08 Sustainable Waste Practices. The Tribe encourages the implementation of sustainable waste practices in all facilities on the Reservation. Some sustainable waste practices include but are not limited to: purchase of recycled or reusable materials over one-time-use materials, purchase of environmentally preferable products, and reducing material use where practicable.
- 1.09 Waste Reduction, Reuse, and Recycling Policy. It shall be the policy of the Tribe to require all Tribal departments and businesses to cooperate with waste recycling programs that are available on the Reservation for the purpose of reducing the amount of solid waste sent to landfills, reducing waste disposal costs and conserving natural resources. Measures to reduce the amount of waste produced should be taken whenever possible, and waste that can be recycled should be recycled.

Section 2. Prohibited Acts

- 2.01 Open Dumping. Open dumping is prohibited under this Ordinance. A person found liable for dumping in an area posted with a NO DUMPING sign may also be subject to additional criminal penalties under § 625 of the Tribal Code.
- 2.02 Littering. Littering is prohibited under this Ordinance. A person found liable of littering in an area posted with a NO LITTERING sign may also be subject to additional criminal penalties under § 625 of the Tribal Code.
- 2.03 Unsecured Load. Any person transporting Solid Waste shall cover, tie, or otherwise secure the waste so that it will not fall, leak, spill or be blown or dropped from the transport.

2.04 Solid Waste Disposal.

- a. Solid Waste generated on the Reservation shall only be deposited at a waste disposal facility or landfill licensed or operated by Tribal, local, state, or federal entities.
- b. The occupant of a building or structure on Tribal land shall be responsible for disposing of the Solid Waste in a timely manner, not to exceed fourteen (14) days.
- c. It shall be unlawful to leave, dispose, deposit, burn or dump Solid Waste or Hazardous Waste anywhere within the lands of the Reservation, except at designated collection sites in the manner set forth by the private solid waste collector or the Tribe.

2.05 Profiting from or Allowing Open Dumping. Knowingly facilitating, accommodating, or permitting open dumping on Tribal lands and/or receiving payment for such acts is prohibited and shall constitute a violation of this ordinance. A person found to have violating this Section shall be subject to enforcement action and civil penalties under Section 3 of this ordinance.

2.06 Improper Disposal of Hazardous Waste. Disposing of Hazardous Waste, including Household Hazardous Waste, anywhere on Tribal lands other than an authorized Hazardous Waste facility or collection event is prohibited.

2.07 Improper Storage. It shall be unlawful for any person or entity to store Solid Waste in a manner that creates a Public Nuisance. Outside storage of Solid Waste must be in durable, water tight, rust-resistant, rodent proof, and easily cleanable bins, trash cans or containers with a close fitting and insect protective tight cover. Containers shall be maintained in such a manner as to prevent the creation of a nuisance or menace to the public health. The containers and their storage are to be maintained in a clean orderly condition. Containers that are broken or otherwise fail to meet the requirements are prohibited and failure to replace non-compliant containers is a separate violation of this Ordinance.

2.08 Bulky Waste. Placing, leaving, dumping, or allowing the accumulation of bulky waste in any open and visible location on Tribal lands is prohibited.

2.09 Construction and Demolition Waste. Disposal of construction and/or demolition waste shall be conducted solely by a duly-licensed waste disposal service, and the occupant of the property on which construction and/or demolition occurs must provide documentation that a contractor licensed for waste disposal was hired for that purpose.

2.10 Dead Animals. The bodies of deceased animals shall be disposed of through burial, taken to a regional landfill or other method approved by the Tribe.

2.11 Fish Scraps. Fish scraps and bi-catch fish waste should be disposed of through burial, taking to regional landfill or other method approved by the Tribe.

2.12 Medical Waste.

- a. Infectious waste from medical, dental, and other clinics on Tribal lands shall be stored in containers with disposable plastic liners with special identification and placed in a location that is not accessible to the public and in an area that is not harmful to the environment. Medical waste that has edges or projections capable of cutting or piercing the skin (i.e., “sharps”) shall not be disposed of on Tribal lands unless they are contained in leak-proof, rigid, puncture-resistant containers such as cartons or metal cans which are taped closed or tightly lidded.
- b. Expired prescriptions from Tribal community members may not be disposed of in the garbage. If disposed of on Tribal lands, expired prescriptions shall be disposed of by utilizing the Bay Mills Health Center pharmacy Medsafe disposal program. Prescription or over the counter and recreational drugs shall not be disposed of down drains or toilets.

2.13 Open Dumping; Failure to Report Dumping Activity or Release. Any dumping or release of Solid Waste or Hazardous Waste on Tribal Land shall be reported to the Tribe as soon as possible, but within 24 hours of the dumping activity or release. Failing to report such findings, or reporting of misleading or false information, shall subject the party who fails to report or reports misleading or false information to a civil penalty.

Section 3. Enforcement

3.01 Enforcement Authority.

- a. The Tribe or its assignee is authorized to access any site on Tribal land for which there is a reasonable basis to believe there may be a release or threat of release of solid waste or hazardous Waste. The Tribe or designated party is also authorized to undertake investigations, monitoring, sampling, and related activities at the impacted site.
- b. Information related to the release of solid waste or hazardous waste shall be shared with the public unless it qualifies as confidential information.
- c. When there is a release or threat of a release of a pollutant or contaminant, the Tribe may investigate, remove or take remedial action or other response measures to protect public health and the environment as authorized under Section 3 of the Hazardous Substances Control Ordinance.

3.02 Evidentiary Presumption. When Solid Waste is dumped or deposited in violation of this ordinance, in the event there is no other evidence available, if there are two (2) or more items in the waste identifying the same person as the owner or recipient of that item, there shall be a rebuttable presumption that such person is responsible for the unlawful dumping of the Solid Waste.

3.03 Enforcement Actions. If the Tribe determines that a violation of this Ordinance has occurred, it may, in its sole discretion:

- a. Engage the violator through a notice of education or other non-punitive method;
or
- b. Take any of the following civil actions:
 - i. Issue a warning explaining what violation(s) of the ordinance took place;
 - ii. Issue an order requiring compliance with the Ordinance;
 - iii. Issue an order requiring corrective action, which may include clean up or abatement;
 - iv. Issue a citation, with a fine not to exceed \$25 per day per violation;
 - v. Terminate or amend any Tribal contract, including leases, if related to the violation;
 - vi. Initiate an action against the violator in Tribal Court, or other court of competent jurisdiction;
 - vii. Pursue any other lawful action against the violator for damages to the environment caused by the violation(s); and
 - viii. Refer the violation to the Tribal Prosecutor for criminal prosecution under § 625 of the Tribal Code.

3.04 Guidelines for Assessing Penalties. The following factors may be taken into consideration when determining whether and if to impose a civil penalty for a violation of this ordinance, and the appropriate amount:

- a. The size of the business or financial resources of the person(s) responsible for the violation;
- b. The environmental harm caused by the violation;
- c. The economic impact of the penalty on the business or person(s);
- d. Whether the Tribe has previously found the violator to have committed a violation of this ordinance;
- e. The actual cost of enforcing this ordinance;
- f. The actual cost of repairing the damage to the Tribe and to the environmental resources of the Tribe;
- g. Whether the violator has attempted to repair the damage caused by the violation(s).

Ordinance originally adopted by Bay Mills Indian Community Executive Council on February 9, 2026.