

**Confederated Salish and Kootenai Tribes of the
Flathead Indian Reservation**

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Tribal Solid Waste Management Ordinance

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NATURAL RESOURCES
DEPARTMENT

ORDINANCE NO. 106A



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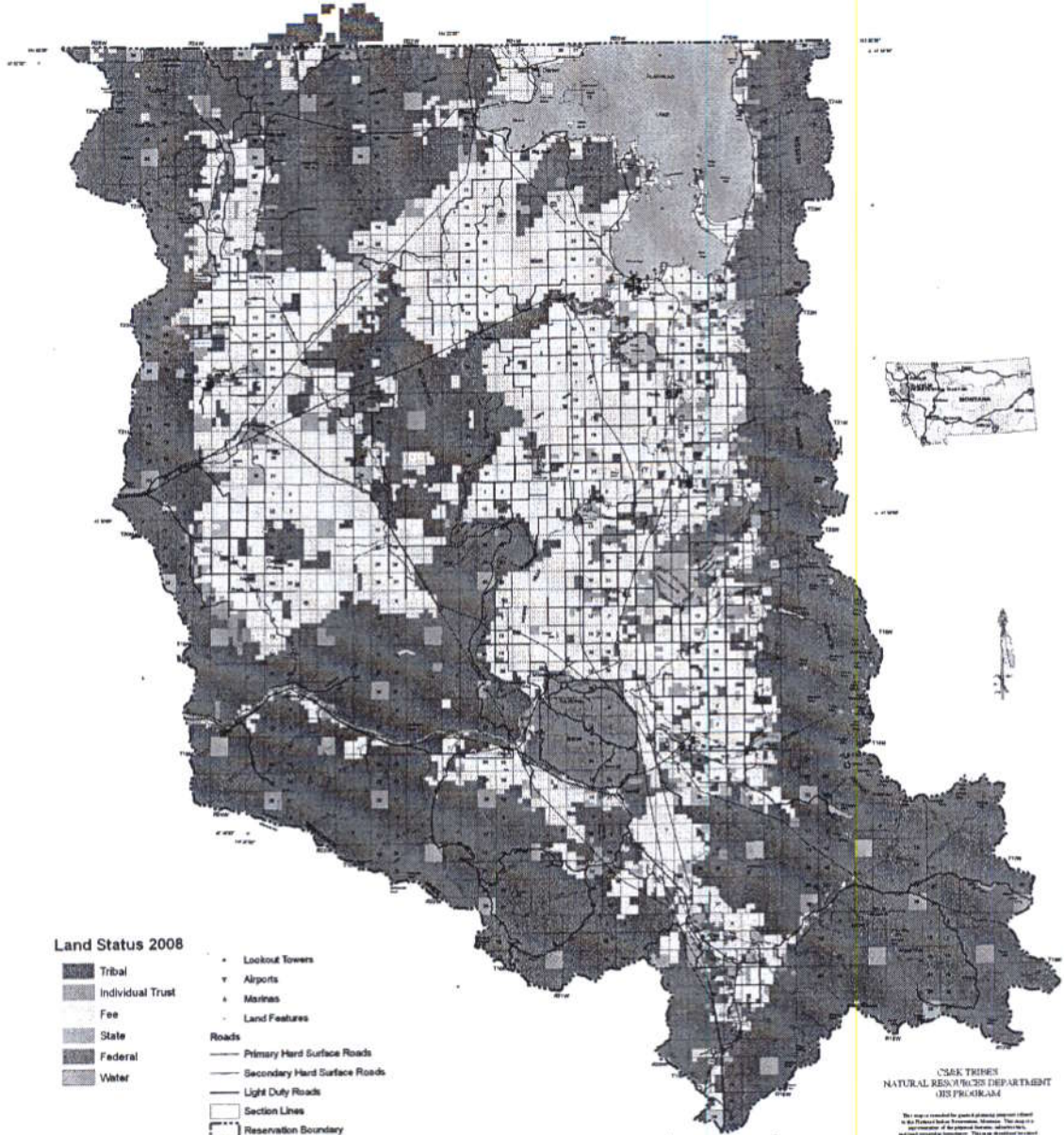
**Confederated Salish & Kootenai Tribes
Natural Resources Department
Division of Environmental Protection
PO Box 278
Pablo, MT 59855
406-675-2700
www.cskt.org**

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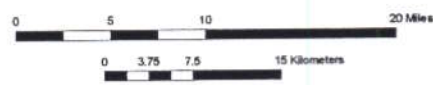


THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE
FLATHEAD NATION



Land Status 2008

- Tribal
 - Individual Trust
 - Fee
 - State
 - Federal
 - Water
- Lookout Towers
 - Airports
 - Marinas
 - Land Features
- Roads
- Primary Hard Surface Roads
 - Secondary Hard Surface Roads
 - Light Duty Roads
 - Section Lines
 - Reservation Boundary
 - County Boundary
 - Wilderness/Primitive Areas
 - Wilderness Buffer Zone
 - Power Transmission Lines
 - Railroads



CSK TRIBES
NATURAL RESOURCES DEPARTMENT
GIS PROGRAM

This map is intended for general planning purposes only and is not intended for use in legal proceedings. The map is a representation of the current status of land ownership and is not intended to be used as a legal document. The map is not intended to be used as a legal document. The map is not intended to be used as a legal document.

This map was prepared on the map of 11/15/05. The map is a representation of the current status of land ownership and is not intended to be used as a legal document. The map is not intended to be used as a legal document.

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Author: GIS Department
Editor: GIS Department
Date: 11/15/05

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THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD
INDIAN RESERVATION

TRIBAL SOLID WASTE MANAGEMENT ORDINANCE
ORDINANCE NO. _____

Be it enacted by the Tribal Council of the Confederated Salish and Kootenai Tribes that the following Ordinance shall be known as the Tribal Solid Waste Management Ordinance.

CHAPTER I
GENERAL PROVISIONS

Authority, Purpose, Statement of Policy, Definitions, and Applicability

Section 1.01 Short Title.

This Ordinance shall be known as the Confederated Salish and Kootenai Tribal Solid Waste Management Ordinance (herein "the Ordinance").

Section 1.02 Authority.

This Ordinance is enacted pursuant to:

- (1) The Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation, as approved by the Secretary of Interior on October 28, 1935, Article VI, Section 1, Subsection (a), (l), (n), (t) and (u); and
- (2) Title 42 United States Code, §§ 6901-6992(k), as amended, the Resource Conservation and Recovery Act (RCRA).

Section 1.03 Purpose.

The Tribal Council of the Confederated Salish and Kootenai [Tribes] enacts this Ordinance in order to:

- (1) Protect the health, welfare, political integrity, and economic security of the Tribe, its members, and residents living on the Reservation;
- (2) Protect the historical and cultural values and traditions of the Tribes, and the Flathead Indian Reservation as a permanent Tribal homeland;
- (3) Prevent the deterioration of the Reservation environment, including air, surface and groundwaters, biota, and soils, from impacts from the improper disposal of solid waste; (4) Provide and promote Tribal environmental protection services within the Reservation to prevent littering and the development of open dumps through regulation of the storage, collection, transportation, and disposal of solid waste by persons subject to the jurisdiction of the Tribes; and

- (5) Comply with the disposal of solid waste on the Reservation as required by Federal Law.

Section 1.04 Definitions.

For the purposes of this ordinance, the following definitions apply:

- (a) **Appropriate Container:** means a watertight, non-leaking container equipped with a tight-fitting lid. The container shall be designed and constructed for the purpose of storing and/or transporting the solid and/or hazardous waste being stored or transported.
- (b) **Approved Disposal Facility:** means a solid waste disposal facility such as a container site, transfer station, and/or a landfill which is an integral component of a solid waste management system licensed by the State of Montana to accept solid waste being disposed.
- (c) **Commercial Solid Waste:** means solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing commercial activities, and non-processing wastes such as office and packing wastes generated at industrial facilities.
- (d) **Council or Tribal Council:** mean the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation.
- (e) **Composting:** means depositing in an appropriate on-site container at a residential location, vegetative materials from a household's waste stream to create a mixture of organic matter used for fertilizing and conditioning land, such as for use in gardens.
- (f) **Container Site:** means a solid waste disposal facility regulated and managed by a unit of local government or a solid waste management district as an integral part of a solid waste management systems licensed by the State of Montana. Container sites are generally open to the public for the collection of solid waste that is generated by more than one household or firm. Such solid wastes are disposed of into a container designed for such purpose with a total capacity of not more than 50 cubic yards.
- (g) **Department:** means the Natural Resource Department of the Confederated Salish and Kootenai Tribes.
- (h) **Disposal:** means the discharging, abandoning, depositing, injecting, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water within the Reservation or other territory over which the Tribes have jurisdiction so that such solid waste or

hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters; provided that composting is excluded from the definition of disposal.

- (i) Household Hazardous Waste: means products commonly used in the home that, due to corrosivity, ignitability, reactivity, toxicity, or other chemical or physical properties, are dangerous to human health or the environment. Household hazardous waste includes but is not limited to cleaning, home maintenance, automobile, personal care, medicines, and yard maintenance products.
- (j) Hazardous Waste: means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may:
 - (1) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or
 - (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.
 - (3) The term hazardous waste shall include the following:
 - (A) all plastics, foam, and Styrofoam, as those terms are commonly used, that is no longer being used or has been discarded;
 - (B) hazardous waste as defined in 40 C.F.R. section 261.3, as amended from time to time;
 - (C) any hazardous air pollutant listed under the Clean Air Act, as codified in part at 42 U.S.C. Section 7412, as amended from time to time; and
 - (D) any hazardous substance contained in 49 C.F.R. Section 172.101, Appendix A (List of Hazardous Substances and Reportable Quantities), as amended from time to time.
- (k) Littering: means throwing solid waste out of any vehicle or form of transportation or scattering solid waste in any manner.
- (l) Nuisance: means a condition that occurs as a result of the handling, treatment, storage, or disposal of solid waste, which condition is injurious to human health or the environment, is indecent or offensive to the senses, is an obstruction to the free use of property, or interferes with the comfortable enjoyment of life or property.

- (m) Open Dump: means any facility or site at which solid waste is disposed of that is not an approved disposal site.
- (n) Open Burning: means the burning of solid waste in an open area, pile, barrel, or in any other uncontrolled manner.
- (o) Person: means any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, federal, tribal, state, county, city, or district government, or other political subdivision thereof or any other group or combination acting as a unit whether incorporated or not, including a person acting in fiduciary or representative capacity.
- (p) Reservation: the term Reservation means all land, air, and water located within the exterior boundaries of the Confederated Salish and Kootenai Tribes' Flathead Indian Reservation as established by the Treaty of Hellgate, 12 Stat. 975.
- (q) Recycling: means the recovery of materials from solid waste for re-use or remanufacturing to create a new product.
- (r) Recovery: means the recovery of materials or energy from solid waste.
- (s) Sludge: means any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.
- (t) Solid Waste: means all putrescible (decomposition of organic matter and proteins by microorganisms, resulting in production of foul-smelling matter/material) and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood products or wood byproducts and inert materials. Solid waste does not mean municipal sewage, industrial wastewater effluents, mining wastes regulated under the mining and reclamation laws administered by the department of environmental quality, slash and forest debris regulated under laws administered by the department of natural resources and conservation, or marketable byproducts.
- (u) State: means the State of Montana or any administrative agency thereof.
- (v) Storage or Store: mean confining, containing or stockpiling of solid waste prior to collection and transport to an approved disposal site or facility authorized to accept solid waste that is outside the boundaries of the

Confederated Salish and Kootenai Tribes reservation or other territory over which the Tribe has jurisdiction.

- (w) Tribal EPA: means the Tribal Environmental Protection Division within the Natural Resources Department of the Confederated Salish and Kootenai Tribes.
- (x) Tribe: means, and A Tribal shall refer to, the Confederated Salish and Kootenai Tribes of the Flathead Nation, a federally recognized Indian tribe.
- (y) Violation: means any violation of this Ordinance.

Section 1.05 Applicability.

The applicability of this Ordinance shall extend to trust land and Indian owned fee lands located within the exterior boundaries of the Flathead Indian Reservation of the Confederated Salish and Kootenai Tribes.

CHAPTER II

Storage, Collection, Transportation and Disposal of Solid Waste

Section 2.01 Storage and Collection of Solid and Hazardous Waste.

- (a) Solid waste may be temporarily stored at residences, businesses or Tribal offices within the Reservation so long as they do not create a nuisance or a threat to the public health.
- (b) No person shall store hazardous waste at their residence or business location except under the following conditions:
 - (1) Small quantities of hazardous waste associated with regular and normal home and yard use may be stored at a person's residence for no longer than six (6) months.
 - (2) Small quantities of hazardous waste associated with regular and normal agricultural or business use and practice may be stored at the business location, including the Tribal offices, for no longer than six (6) months.
 - (3) Any person storing hazardous waste at a residence or business location must take precautions to protect the health, safety and welfare of the residents and environment of the Reservation or other territory over which the Tribes have jurisdiction.

(4) No hazardous material shall be stored in such a manner as to create a nuisance or threat to public health and the environment.

Section 2.02 Transportation of Solid Waste.

All solid waste being transported to the appropriate container sites shall be secured such that no solid waste falls or is blown, dropped or spilled, from the transport vehicle at any time.

Section 2.03 Disposal of Solid Waste.

(a) No person shall dump, deposit or dispose of solid waste anywhere within the Reservation, except within an approved disposal site or at an appropriate container site.

(b) No person shall burn or incinerate hazardous waste anywhere within the Reservation.

(c) No person shall improperly dump, deposit or dispose of solid waste in a trash bin or other temporary solid waste storage container that is not intended for the use of that person.

(d) No person shall maintain an open dump on their property, whether owned or rented, residential or business.

Section 2.04 Prohibited Acts.

No person shall do the following anywhere within the Reservation:

- (a) Open burning of any solid wastes;
- (b) Starting, maintaining, or operating an open dump;
- (c) Disposing of solid waste in an open dump;
- (d) Littering;
- (e) Storage of hazardous waste unless otherwise allowed for in section 2.01 of this ordinance.

CHAPTER III
Recycling

Section 3.01 Recycling and Solid Waste Education Program.

(a) The Tribes shall create and adopt regulations as are necessary for the safe and sanitary collection, handling, transport, storage, and disposal of recycled materials, including composting, within the Reservation

(1) In developing any such regulations, the Tribes shall allow for input and comment and a 30 day notice period.

(b) All persons within or passing through the Reservation, including residents and businesses, are encouraged, and may be required pursuant to any Tribal regulations adopted pursuant to sub-section (a), to implement source separation to allow for recycling and composting of materials from the solid waste stream. If such activities are required, the Tribes may provide appropriate containers to enhance and control the source separation and recycling program. If the Tribes do not provide such containers, it is the generator's responsibility to provide separation containers meeting the approval of the Tribes.

(c) The Tribes are authorized to develop and implement an environmental education program within the Reservation or other territory over which the Tribes have jurisdiction.

CHAPTER IV Penalties

Section 4.01 Civil Penalties.

Any person who violates this Ordinance shall be subject to a civil fine or Community Work Service including cleaning of dump grounds and or costs of said clean up as deemed appropriate by the Tribal Court in an amount not to exceed \$5,000.00 for each day of violation.

Section 4.02 Civil Damages and/or Injunctive Actions.

In the event that any person, as a result of his or her actions that constitute a violation, should proximately cause any physical damage to any other person(s) residing within, or to any real or personal property situated in, the Reservation, the Tribes or other person authorized by the Tribes, or the person(s) adversely affected, shall have the right to seek monetary and/or injunctive relief including the imposition of penalties as set out above in the Confederated Salish and Kootenai Tribes' Tribal Court.

Section 4.03 No Other Remedies Affected.

Nothing in this Ordinance shall in any way limit an individual's right to pursue, in any judicial forum of competent jurisdiction, a private action for damages resulting from actions that would be considered violations of this Ordinance.

CHAPTER V
General Provisions

Section 5.01 Effect of Ordinance on Other Tribal Ordinances.

This Ordinance supersedes any conflicting or contrary superseding ordinances passed by the Tribes. The more stringent standard shall apply.

Section 5.02 Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of this Ordinance, and to this end the provisions of this Ordinance are severable.

Section 5.03 Sovereign Immunity.

The sovereign immunity of the Tribes is in no manner waived by this Ordinance or by any action by the Tribal Council, the Tribal EPD, or other staff of the Tribes acting pursuant to this Ordinance.

Section 5.04 Amendments.

This Ordinance may be amended at any time by the Tribal Council for enforcement on individually-owned Trust Land.

Section 5.05 Effective Date.

This Ordinance shall take effect immediately upon passage.

CERTIFICATION

The foregoing Ordinance was adopted by the Tribal Council on the 3rd day of February 2009, with a vote of 9 for, 0 opposed, and 0 not voting, pursuant to authority vested in it by Article VI, Section 1, Subsections (a), (n), and (u) of the Tribal Constitution and Bylaws; said Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

ATTEST:


Executive Secretary


Chairman, Tribal Council