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## **SECTION 1**

### **FINDINGS AND PURPOSE**

#### **1.1 INTRODUCTION**

It is the tradition of the Mohawk People to look generations forward in planning. It is with this foresight that this document is intended.

Our current solid waste disposal practices are not in good harmony with Mother Earth and these practices will have an adverse affect on the future generations that are going to inherit this land. Adherence to the St. Regis Mohawk Tribe Solid Waste Management Code (hereinafter the "Code") will help to bring solid waste management practices into harmony.

#### **1.2 THE TRIBE'S INHERENT SOVEREIGN POWER & CIVIL JURISDICTION**

The St. Regis Mohawk Tribal Council is recognized by the people and outside governments and their agencies as a sovereign government. The Tribe has the inherent authority to manage and regulate the storage, collection, transportation, handling, treatment and disposal of solid waste in a manner which best protects Mother Earth, her natural resources, and the health, welfare, and economic security of this generation of Mohawk People and the generations to follow.

This Code is enacted pursuant to the sovereign tribal power of the St. Regis Mohawk Tribal Council ("Council"), as a recognized law-making body, to manage and otherwise deal with Tribal lands, natural resources and property; to promulgate and enforce codes providing for the health, safety and welfare of the Tribe and its members, to maintain law and order and administer justice on Mohawk land, to protect Mohawk environment and to delegate to Tribal boards, agencies and employees, the foregoing powers, subject to review by Council.

The Tribe retains the inherent sovereign power to exercise civil authority and jurisdiction over the conduct of both Tribal and non-Tribal members on all lands within Akwesasne Mohawk territory, as necessary to maintain the environment, natural resources, public health, safety, welfare, political integrity and economic security of the Tribe.

#### **1.3 PURPOSES OF THE SOLID WASTE MANAGEMENT CODE**

The Code does not allow the disposal of any solid waste on Mohawk lands. It is the intent of this Code to create a comprehensive integrated waste management policy that requires all solid waste to be disposed of properly at management facilities located off

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Mohawk lands. This policy encourages the Mohawk People to reduce, recycle and reuse those materials that don't belong in the waste stream. Education of the community through different media has been an ongoing and continuing process to eliminate some of the historically poor solid waste disposal practices.

The policy is intended to:

- (1) Protect the health and safety of Tribal members and all other persons within Mohawk territory;
- (2) Protect the cultural, social and economic stability of residential, agricultural, commercial, industrial, forest, riparian, and environmentally sensitive lands within Mohawk territory;
- (3) Protect the historical and cultural values and traditions of the Tribe, Mohawk land as a permanent Tribal homeland, and the aboriginal character of Mohawk land;
- (4) Prevent solid waste pollution, including contamination of the Tribes groundwater, surface waters, drinking water supplies, and all other natural resources;
- (5) Prevent the deterioration of the environment, standard of living, quality of life, welfare and well being of all persons within Mohawk lands;
- (6) Provide and promote Tribal waste management efficiency and services within Mohawk land; and
- (7) Research financing, implementation, regulation, and environmental standards and criteria, order and permit conditions, and laws and regulation options, for the best sanitary storage, collection, transportation and disposal system.

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## SECTION 2

### DEFINITIONS

Unless otherwise provided or the context requires another definition, the definitions set forth in this section shall apply to the terms used throughout this Code. Additional definitions sometimes appear in the specific sections to which they apply.

Closure.

The termination of the receiving, handling, recycling, treatment, composting, or disposal of solid wastes at a management facility, and includes all operations necessary to prepare the management facility for post-closure maintenance.

Code.

The St. Regis Mohawk Tribe Solid Waste Management Code.

Conditionally Exempt Small Quantity Generators.

Facilities that produce less than 100 kg of hazardous waste, or less than 1 kg of acutely hazardous waste per calendar month.

Collection.

The act of collecting solid wastes by an approved collection hauler.

Construction.

The erection or building of new structures and the acquisition, replacement, expansion, remodeling, alteration, modernization, or extension of existing structures.

Director.

The Director of the Tribe's Environment Division.

Disposal.

The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including surface waters or ground waters.

Environment Division.

The Tribe's Environment Division whose mission is to preserve, protect, restore, and enhance the community of Akwesasne for the present and future generations.

Farm.

A facility that raises or harvests any agricultural or horticultural commodity through the cultivation of the soil, aquaculture product or the raising, shearing, feeding, caring for, training or management of livestock, bee, poultry, fur bearing animals, fish, domestic animals or wildlife.

Financial Mechanism.

A trust fund or other equivalent financial arrangement acceptable to

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the Environment Division to provide the financial assurances required by this Code.

### Floodplain.

Land that would be inundated with floodwater as a result of the occurrence of a 100-year flood.

### Groundwater.

Water below the land surface in a zone of saturation.

### Guidance Document.

A document prepared by the Environment Division that supplements criteria under this Code. A guidance document may provide specific technical direction regarding the manner in which an owner or operator shall comply with this Code. Guidance documents may be referred to or attached as conditions to permits. Such technical direction must either conform to this Code, or be more stringent. A guidance document may also provide direction as to how the Director of the Environment Division interprets the Tribe's solid waste permit program, consistent with Tribal laws and this Code.

### Hauler.

A person or commercial establishment that is in the business of collecting and transporting solid wastes within the boundaries of the Reservation.

### Hazardous Waste.

A waste 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; or
- (2) Is specifically defined to be hazardous or toxic, including but not limited to any substance, material, smoke, gas, particulate matter, or combination thereof containing asbestos, petroleum or its byproducts, or Polychlorinated Biphenyls (PCBs); or
- (3) Is hazardous, toxic, ignitable, reactive, or corrosive, and that is defined and regulated as such by the Tribe.

### Household Hazardous Waste.

Hazardous wastes generated from normal household activities (e.g. routine house and yard maintenance).

### Industrial Waste.

A subset of solid wastes, which are generated by manufacturing or industrial processes. Such processes may include, but are not limited to the following: electric power generation; fertilizer/agricultural chemicals; inorganic

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chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. The forms of such wastes are exemplified by but not limited to: liquids such as acids, alkalis, caustics, leachate, petroleum (and its derivatives), and processes or treatment wastewaters; sludges which are semi-solid substances resulting from process or treatment operations or residues from storage or use of liquids; solidified chemicals, paints or pigments; and dredge soil, foundry sand, and the end or by-products of incineration or other forms of combustion.

### Infectious Waste.

A subset of solid wastes that include but are not limited to the following:

- (1) Laboratory wastes, including but not limited to cultures of etiological agents (agents that cause diseases), which pose a substantial threat to health due to their volume and virulence.
- (2) Pathological specimens, including but not limited to human or animal tissues, blood elements, excreta, and secretions that contain etiologic agents, and attendant disposable fomites.
- (3) Surgical specimens, including but not limited to human or animal parts and tissues removed surgically, or at autopsy, which in the opinion of the attending physician or veterinarian, contain etiologic agents and attendant disposable fomites.
- (4) Human dialysis waste materials, including but not limited to arterial lines and dialysate membranes.
- (5) Carcasses of animals infected with etiological agents that may present a substantial hazard to public health if improperly managed.
- (6) Equipment, instruments, utensils, or any other material that is likely to transmit etiologic agents.
- (7) Any other material that is likely to transmit etiologic agents, or presents a significant danger of infection, because it is contaminated with, or may reasonably be expected to be contaminated with, etiologic agents.

### Inherently Waste-like Material.

A material, such as dioxin-containing wastes, that is always considered a solid waste because of its intrinsic threat to human health and the environment.

### Liquid Waste.

Waste material that contains free liquid.

### Management Facility

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All contiguous land and structures, other appurtenances, and improvements on the land used for the management of solid wastes.

### Municipal Solid Wastes (MSW)

A subset of solid waste that is defined as durable goods (e.g. appliances, tires, batteries), non-durable goods (e.g. newspapers, books, magazines) containers and packaging, food wastes, yard trimmings, and miscellaneous organic wastes from residential, commercial, and industrial non-process sources.

### MSWLF.

Municipal Solid Waste Landfill

### Nuisance.

A condition that occurs as a result of the handling, treatment, composting, or disposal of solid waste, which condition

- (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) Affects an entire community or neighborhood or any considerable number of persons.

### 100-Year Flood.

A flood that has a one percent chance of being equaled or exceeded or greater chance of recurring in a one-year period based on criteria established by the Director of the Environment Division.

### Open Burning.

The combustion of solid waste without:

- (1) Control of the 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.

### Open Dump.

Any management facility or site on Mohawk land where solid waste has been disposed of, which is not a sanitary landfill authorized under this Code.

### Operator.

The person(s) responsible for the overall operation of a management facility or part of a management facility.

### Owner.

The person(s) who owns a management facility or part of a management facility.

### Permit.

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An authorization and license issued under the authority of the Environment Division regulating the collection and transportation of MSW and/or solid waste, or regulating the treatment and disposal of MSW and/or solid waste including the construction and/or operation of a management facility. These are environmental standards mandated by the Tribe.

### Permittee.

A person, hauler, or entity who is authorized and permitted by the Environment Division to collect and transport MSW and/or solid wastes, or to construct or operate a management facility in compliance with this Code.

### Permit Documents.

Permit applications, drafts and final permits, or other documents that include applicable design and management conditions in accordance with this Code, and the technical and administrative information used to explain the basis of permit conditions, including applicable guidance documents.

### Person.

Any individual, trust, firm, association, partnership, Indian Tribe, Tribally chartered corporation or business, political subdivision, government agency, industry, public or private corporation, any legal entity or private enterprise, and includes members of the St. Regis Mohawk Tribe, all other non-member Indians, and all non-Indians.

### Pollution.

The unauthorized disposal of any solid waste into the air, land, surface water or groundwater.

### Post-Closure Maintenance.

All activities undertaken at a closed management facility to maintain the integrity of containment features and to monitor compliance with applicable performance standards as required under this Code.

### Post-Closure Maintenance Period.

A period of at least thirty (30) years after closure of a management facility, or if the Tribe has an approved solid waste program, a period which ends only after the operator demonstrates to the satisfaction of the Director of the Environment Division that the solid waste contained in such facility no longer poses any threat to human health and the environment.

### RCRA.

Resource Conservation and Recovery Act. An Environmental Protection Agency policy, which regulates the generation, transportation and storage of solid and hazardous waste.

### Recovery.

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The recovery of material, byproducts, or energy from solid waste.

### Recycling.

The process of separation and collection of solid wastes, their subsequent transformation or remanufacture into usable or marketable products or materials, and the purchase of products made from materials that have already been used in some form.

### Reuse.

The process of using solid wastes over again for the same purpose that it was originally designed, or using it for a different purpose.

### Regulated Hazardous Waste.

A solid waste that is a hazardous waste that is not excluded from regulation as a hazardous waste, or not generated by a conditionally exempt small quantity generator.

### Removal.

The act of taking solid waste from the place of generation or storage, either by an approved collection agency or by the owner of the solid waste.

### Reservation.

The St. Regis Mohawk Indian Reservation, and includes all lands of any kind within the Mohawk Territory of Akwesasne.

### Rules and Regulations.

Any policies promulgated by the Environment Division, and adopted by the Tribal Council, regulating the collection, transportation or disposal of solid waste on Mohawk land, which will implement, supplement or regulate any provisions of this Code.

### Sanitary Landfill.

A disposal facility employing a method of disposing of solid waste on land, without creating nuisances, pollution or hazards to public health or safety, by using methods to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of suitable cover material at specific designated intervals. A MSWLF under this Code is a sanitary landfill.

### Sewage Sludge.

A subset of solid wastes that includes any residue, excluding grit or screenings, removed from wastewater, whether in a dry, semi-dry, or liquid form.

### Sludge.

A sub-set of solid waste that may be solid, semi-solid, or liquid waste generated from a commercial, or industrial wastewater treatment plant, water supply treatment plan, or air pollution control facility, exclusive of the treated

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effluent from a wastewater treatment plant.

### Special Wastes.

A subset of solid wastes, which is listed in Section 4.5 of this Code.

### Solid Waste.

Any garbage, or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility and other discarded materials, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial mining, and agricultural operations, and from community activities. For the purposes of hazardous regulation, a solid waste is a material that is discarded by being either abandoned, inherently waste-like; a certain military munitions, or recycled.

### Solid Waste Transfer Station (SWTS) or Transfer Station.

A publicly or privately owned facility or site that receives solid waste as for the purposes of sorting, recycling, compacting, recovering, and transferring solid waste. A SWTS unit may be a new unit, an existing unit or a lateral expansion. A lateral expansion is the horizontal expansion of an existing unit.

### Source Reduction.

The design, manufacture, and use of products in a way that reduces the quantity and toxicity of waste produced when the products reach the end of their useful lives; i.e. waste prevention.

### SWDA.

The Solid Waste Disposal Act.

### Treatment.

"Treatment", when used in connection with hazardous waste, is any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste or so as to render such waste non-hazardous, safer for transport, amendable for recovery, amendable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it non-hazardous.

### Tribal Council or Council.

The Tribal Council of the St. Regis Mohawk Tribe and the governing body of the Tribe.

### Tribe or Tribal.

St. Regis Mohawk Tribe.

### Tribe's Solid Waste Disposal Program.

All the authorities, activities and procedures under this Code, the Tribe's Solid Waste Management Plan, and any other Tribal laws or regulations that comprise the Tribe's system of permits, and prior approval and conditions for

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regulating the collection, handling, transportation, and disposal, treatment and storage of solid waste, including all of the location, operation, design, groundwater monitoring, corrective action, closure, post-closure and financial assurance requirements.

Tribe's Solid Waste Management Plan.

The formulation of Tribal policies for all solid waste collection, handling, transportation, disposal, treatment, storage, source reduction, reusing, recycling and resource conservation on Mohawk lands.

Vector.

Any insect, arthropod, rodent, or other animal capable of transmitting a pathogen from one organism to another, or of disrupting the normal enjoyment of life by adversely affecting the public health and well being.

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## SECTION 3

### DESIGNATION OF AUTHORITY

#### 3.1 THE TRIBE'S ENVIRONMENT DIVISION

The St. Regis Mohawk Tribe respects the thoughts and teachings of the Mohawk People and is entrusted to protect the land, air, water, vegetation and animal life for the next seven generations. To accomplish this mission as it relates to solid waste management, the St. Regis Mohawk Tribe hereby appoints the Environment Division as the lead Tribal agency to ensure the proper management of solid wastes. The Environment Division shall have the powers, duties, and responsibilities as provided for herein.

The Environment Division shall develop and manage the Tribe's comprehensive integrated waste management policy using both the traditional concept of seven generations and by the duties specifically designated by this Code, or as may be assigned from time to time by the Environment Division Director or Tribal Council. The Environment Division shall communicate to the community information about the Tribe's comprehensive integrated waste management policy; and make reports in a manner and containing such information as the Tribe approves, excluding any confidential or privileged information

##### 3.1.1 Duties of the Environment Division With Respect to Solid Wastes.

The Environment Division is entrusted to protect the land, air, water, vegetation and animal life for the future generations from the detrimental effects of improper management of solid waste. The Environment Division's specific duties necessary to accomplish this task shall include the following:

- (1) Develop and implement the Tribe's Solid Waste Management Plan pursuant to the requirements of this Code. The goal of this plan shall be to provide guidance to manage solid wastes in a manner that honors the earth, people, plants, animals, and waters, while contributing to the economic and social progress of the community.
- (2) Build on the community's inherent respect for the natural world by developing processes which incorporate the technical standards and criteria for the location, construction, design, operation, closure, and post-closure, requirements for management facilities; and which also provide the technical standards and criteria for the collection and transportation of solid wastes.
- (3) Prepare an inventory and location of all sites on and around Mohawk land

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where solid wastes have been disposed, and a plan to close all sites.

- (4) Develop a mechanism to allow for community involvement and input in implementing the Tribe's solid waste management plan;
- (5) Prepare technical reports as may be requested from time to time, including environmental assessments as may be necessary.
- (6) Administrate, supervise, monitor, and investigate the collection, transportation, and disposal of solid waste on Mohawk land in compliance with this Code, and all laws, rules and regulations, and guidance documents promulgated thereunder.
- (7) Investigate and prepare applications for private, Federal or State grants, funding, and financial and technical assistance to implement the Tribe's solid waste management plan.
- (8) Develop and issue permits for collection and transportation of solid waste and for the construction and operation of management facilities.
- (9) Ensure that proper handling, collection & disposal of regulated hazardous waste is done in accordance with Section 4 of the Code.

### **3.1.2 Duty of the Environment Division to Investigate Under This Code**

Upon receiving a credible complaint by any person, or upon its own initiative, the Environment Division shall request that St. Regis Mohawk Tribal Police perform a thorough investigation of any violations made by any person, management facility, or hauler.

A credible complaint is a complaint that relates to, but is not limited to, improper disposal methods, unauthorized acceptance of special wastes, inappropriate handling, collection and transportation of solid waste and/or worker safety issues.

Enforcement actions pursuant to Section 6.3 of this Code may be taken depending on the outcomes of any investigations.

**SECTION 4**

**PROPER HANDLING, COLLECTION, & DISPOSAL OF SOLID WASTES**

**4.1 INTEGRATED WASTE MANAGEMENT**

Tribal policy shall be that an integrated waste management approach shall be used for the management of solid wastes. This approach shall first promote source reduction, reusing, recycling followed by disposal.

The Environment Division may issue rules and regulations for reducing, reusing, and recycling of solid wastes on Mohawk land. Proper and safe practices based on industry standards will be developed to increase safety in the recovery phase of these efforts.

**4.2 OPEN DUMPING**

The open dumping of solid wastes on Mother Earth shows disrespect and does irreparable damage to the land and the environment. Much of this waste can last longer than seven generations and can affect many more than that through contamination of the soil, groundwater, and surface waters. Proper disposal of these materials can be accomplished through the utilization of management facilities, licensed haulers and/or taken directly off reservation to permitted disposal areas.

This Code forbids the disposing of, dumping, scattering, placing, or causing to be dumped, scattered or placed, any solid wastes as defined under this Code, at or near an open dump site within Mohawk lands, or on any other land which affects the Mohawk People, except as disposal may be permitted under this Code at a duly authorized and designated management facility. This Code absolutely forbids the disposing of, dumping, scattering, placing, or causing to be dumped, scattered or placed, any special or industrial wastes, including any hazardous wastes defined under this Code, at or near an open dump site within Mohawk lands, or on any other land which affects the Mohawk People, except as disposal may be permitted under this Code at a duly authorized and designated management facility.

Backyard composting of selected components of MSW according to guidelines developed by the Environment Division will be considered proper disposal of MSW. Land spreading of manure generated from a farm according to guidelines developed by the Environment Division will be considered proper disposal of solid waste.

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#### **4.3 BURNING OF SOLID WASTE**

Any burning of solid wastes will be done in accordance with the open burn regulations established by the Environment Division's Clean Air Program.

#### **4.4 HOUSEHOLD HAZARDOUS WASTES**

On certain specified days during the calendar year certain household hazardous wastes will be accepted at specific drop off areas on Mohawk land for proper disposal. Only on those days and at those locations will a limited number of prohibited special wastes be accepted. The wastes allowed will be listed and announced thirty (30) calendar days prior to the collection date by the Director of the Environment Division. Collection will be at the specified area **only**.

All items to be included in the Household Hazardous Waste collection will be compiled and listed by the Director of the Environment Division, as the Director deems necessary and able. These items will be published in the most widely circulated newspaper on Mohawk land for three consecutive weeks prior to collection activities. Disposal methods and containers will follow recognized standards established by USEPA and OSHA. Rules and regulations adopted by the Environment Division will be used if methods specified meet or exceed the minimum standards established by USEPA and OSHA.

If the Director or any employee involved with the collection of Household Hazardous Waste is in doubt regarding the safety of handling a product, then such product will be returned to the individual who transported said product to the collection point.

Collection of Household Hazardous Waste will occur based solely on the availability of funding. If the Environment Division deems that regularly scheduled collections are necessary in its discretion, under rules and regulations to be adopted by the Environment Division, then the necessary steps and procedures will be taken to assure regularly scheduled collections.

Disposing of household hazardous wastes at a management facility located within Mohawk territory is a violation of the Code.

#### **4.5 SPECIAL WASTES**

The Environment Division may prohibit the disposal of other solid wastes at management facilities on Mohawk land, as it deems necessary in its discretion, under rules and regulations to be adopted by the Environment Division. The Environment Division shall

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issue rules and regulations governing the disposal or prohibition of disposal of other solid wastes not listed herein, including but not limited to, ashes and powders, and mineral wastes and soils. The Environment Division shall develop rules and regulations for special wastes, which require special handling, treatment and disposal.

Tribal Departments or agencies, private enterprises, haulers or any other person are prohibited from disposing of the following special wastes at a management facility located within Mohawk territory:

- (1) Radioactive wastes.
- (2) All regulated hazardous wastes as defined by RCRA.
- (3) Infectious biomedical wastes, which includes human tissue or human anatomical remains.
- (4) Animals or bedding exposed to infective agents.
- (5) Sharps, needles and lancets.
- (6) Bulk quantities of infectious-type wastes including blood, blood products and body fluids.
- (7) Any materials containing friable asbestos waste from building demolition or cleaning, and any friable asbestos materials.
- (8) Sewage or sewage sludge wastes.
- (9) Bulk liquids of any kind.
- (10) Polychlorinated Biphenyls (PCBs).
- (11) Explosives.
- (12) Hazardous waste generated from conditionally exempt small quantity generators.

Collection and transportation of special wastes within the Mohawk Territory will only be done by haulers who follow applicable Tribal, Federal, and State laws and regulations pertaining to the collection and transportation of these types of wastes.

## **SECTION 5**

### **PERMIT REQUIREMENTS FOR SOLID WASTE MANAGEMENT ACTIVITIES**

#### **5.1 GENERAL PERMIT REQUIREMENTS**

Tribal departments or agencies, private enterprises, haulers, or any other persons are required to obtain a permit from the Environment Division to collect and/or transport solid waste, or to construct or operate a management facility. Any permittee shall be required to comply with this Code, any rule or regulation promulgated thereunder, all Tribal Environmental standards and criteria, all relevant guidance documents, all permit conditions, all orders issued by the Environment Division under authority of this Code, and all applicable Tribal laws.

No Tribal departments or agency, private enterprise, hauler, or person may collect or transport solid wastes, or construct or operate a management facility within Mohawk lands without first having obtained from the Environment Division either (1) a solid waste collection and transportation permit; or (2) a solid waste facility construction and/or operation permit.

In order to provide for Tribal health and safety and to facilitate the conservation of vital Tribal resources, each person shall provide for the removal of solid wastes and recyclables from their property on which they are generated either through a service provided by the Tribe or licensed private hauler or by direct haul by the individual generator to a permitted management facility approved by the Tribe that is located on Mohawk land.

Any qualified tribally chartered corporation, agency, private enterprise, hauler, or person may file an application with the Environment Division for a permit to collect and transport solid wastes, or to construct and/or operate a management facility.

#### **5.2 PERMITS FOR THE CONSTRUCTION AND OPERATION OF A MANAGEMENT FACILITY**

No solid waste construction and/or operation facility permit shall be issued unless there has been a public hearing conducted by the Environment Division at which the applicant and all interested persons shall have an opportunity to present relevant evidence and be heard on whether the application should be granted, or whether there are any special conditions which should be included in such permit. All applications for a solid waste construction and/or operation facility permit, including all documentation required for such permit, shall be available for public review and inspection at least thirty (30) calendar days in

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advance of the hearing. The Environment Division shall publish a notice of such public hearing on each application at least ten (10) calendar days in advance of the hearing in the locally circulated newspapers. The Environment Division shall also post notice of the public hearing near the proposed permanent site for a management facility, but viewable to the public, at least thirty (30) calendar days in advance of the hearing. The Environment Division may designate issues it deems most relevant for the public hearing in the public notice, but the Environment Division shall consider all issues, which are raised at the hearing. The public hearing shall be recorded and all views, questions and comments noted. All views, questions and comments shall be addressed and answered within a minimum of thirty (30) calendar days from the date of the public hearing. On any issue of contention an analysis of alternatives and arguments shall be documented and stated in written form and made available to the general public.

The information in every application submitted pursuant to these regulations must be of sufficient detail so as to allow the Environment Division to fulfill its responsibilities under this Code by:

- (1) having details sufficient to be readily understood by the persons using the documents contained in the application to enable them to determine how the facility will be constructed, operated, and closed and how it will be monitored and maintained after closure,
- (2) providing the Environment Division with sufficient detail to ascertain the environmental impact of the proposed project and
- (3) providing sufficient detail to demonstrate that the design, construction, operation, closure, and post closure monitoring and maintenance of the facility will be capable of compliance with the applicable requirements of this Code.

Unless otherwise specified in this Code, the plans and drawings for all solid waste management facilities must be submitted using the following format:

- (1) the sheet size with title blocks must be 32 by 34 inches or 24 by 26 inches;
- (2) the cover sheet must include the project title, applicant's name, sheet index, legend of symbols, and the engineer's name, address, signature, date of signature and seal;
- (3) the plans relating to the project to its environmental setting must include:
  - a. a regional plan or map (having a minimum scale of 1:62,500)

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- b. a vicinity plan or map (having a minimum scale of 1:24,000); and
  - c. an overall site plan (having a minimum scale of 1:2,400 with a five feet minimum contour interval);
- (4) site plans must contain the location of all property boundaries certified by an individual licensed to practice land surveying in the State of New York;
- (5) the engineering reports for all solid waste management facilities must:
- a. contain a cover sheet stating the project title and location, applicant's name, and the engineer's name, address, signature, date of signature and seal;
    - i. have its text printed on 8-1/2 x 11 inch pages (paginated consecutively);
    - ii. contain a table of contents or index describing the body of the report and the appendices;
    - iii. include a body of report; and
    - iv. include all appendices.

### 5.2.1 Transfer Stations

In addition to sections 5.1 & 5.2, transfer stations are subject to the requirements as set forth in this subpart.

Applications for initial permits to construct and operate a transfer station at a closed landfill site may have additional requirements as determined by the Environment Division. These additional matters will be required under a different section.

#### ***5.2.1A Transfer Stations Receiving Less Than 50,000 Cubic Yards or 12,500 Tons Annually***

A facility receiving less than 50,000 cubic yards or 12,500 tons of solid waste annually, must meet the following additional conditions:

- (1) Only MSW is accepted at the facility. Other solid wastes shall not be

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- accepted;
- (2) A maximum of 1,000 yards or 250 tons of MSW is located on-site at any given time;
  - (3) All putrescible MSW is removed from the transfer station within seven days of receipt, unless prior written approval is received from the Environment Division;
  - (4) The facility complies with the requirements of subdivision 5.2.2 of this subpart;
  - (5) The facility operates only between the hours of sunrise and sunset, or when an attendant is on duty;
  - (6) The facility is developed, operated and maintained in a safe, nuisance-free manner; and
  - (6) The facility complies with the applicable operational requirements of section 4.1 of this Code.

***5.2.1B Transfer Stations Receiving More Than 50,000 Cubic Yards or 12,500 Tons Annually***

All solid waste transfer stations receiving more than 50,000 cubic yards or 12,500 tons of solid waste annually must meet the minimum design requirements as follows:

- (1) The unloading area must be adequate in size and design to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles;
- (2) The unloading and loading pavement areas must be constructed of concrete or asphalt paving material and equipped with adequate drainage structures;
- (3) Processing, tipping, sorting, storage, and compaction areas must be located within an enclosed building or covered area;
- (4) Provisions must be made for weighing or measuring all solid waste transferred to the facility;
- (5) Sufficient internal storage areas must be provided for incoming solid waste;

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- (6) Exhaust removal systems must be installed in enclosed areas;
- (7) Wheel curbs must be provided to prevent trucks from backing into pits while unloading;
- (8) The facility must be designed to accommodate expected traffic flow in a safe and efficient manner;
- (9) The road surface must be suitable for heavy vehicles, and the road base must be capable of withstanding expected loads; and
- (10) On-site roads must be passable by loaded collection and transfer vehicles in all weather conditions. Provisions must be made for de-icing all ramps.

### 5.2.2 Operational Requirements for Transfer Stations

All solid waste transfer stations must comply with the following operational requirements:

- (1) Acceptable waste. Only MSW shall be accepted at the facility. No industrial wastes, special wastes, or construction and demolition debris shall be accepted unless specifically approved by the Environment Division.
- (2) Ultimate disposal of waste. All solid waste passing through the transfer station must be ultimately treated or disposed of at a facility authorized by the Environment Division if it is located within Mohawk Territory, or by the appropriate governmental agency or agencies if in other states, territories, or nations. In the case of transfer stations at which solid waste is intended to be placed on vessels, no solid waste shall be placed on a vessel not owned or operated by a City whose population exceeds one million, without having first received written approval from the Environment Division. That approval will be granted if the operator of the facility submits to the Environment Division the following:
  - a. a certified copy of each permit or other authorization pertaining to the operation of the treatment or disposal facility to which the solid waste will be brought, issued by each governmental entity having jurisdiction over that facility; and,

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- b. original letters from each jurisdiction through which that solid waste will pass, and from each jurisdiction in which that solid waste will be treated or disposed of, stating that the governmental entity does not object to the solid waste being transported through or treated or disposed within its jurisdiction.

### **5.3 PERMITS FOR THE COLLECTION AND TRANSPORTATION OF SOLID WASTE BY HAULERS**

As a condition for the issuance of a solid waste collection and transportation permit, the Environment Division shall require every vehicle operated by the hauler to be conspicuously marked to identify the solid waste transported. Every vehicle shall be marked with the trade name of the hauler, and the number of the transportation permit issued pursuant to this Section. Every vehicle and driver must be licensed and must comply with all safety and insurance requirements of the state or province from which they are licensed.

After placement of solid wastes and of recyclable materials at the roadside or other designated area approved by the Tribe by a person for collection in accordance herewith, such solid wastes and recyclable material shall be delivered to the appropriate facility designated by the Tribe.

As a condition for the issuance of a solid waste collection and transportation permit, a hauler agrees to make an annual report by December 1 of each year, to the Director of the Environment Division, indicating the number and type of installations emptied or cleaned, the quantity of solid wastes disposed of, the place and manner in which such solid wastes were finally disposed, quantity and types of recyclables collected, and such other information as the Environment Division may require. A renewal may be denied by the Environment Division for failure of the permittee to properly and timely file such annual report.

The Environment Division on a calendar basis must renew solid waste permits for the collection and transportation annually. The Environment Division shall adopt rules and regulations for solid waste collection and transportation on Mohawk land, including the operation of management facilities, and may impose whatever conditions it deems reasonably necessary to protect the environment, and the health, safety and welfare of the Tribe and its members before issuing any permit under this section.

### **5.4 COMPLIANCE MONITORING**

The Environment Division shall have the right to request any and all information from any permittee under this Code, including but not limited to records and technical reports or studies, whether contained in the permittee's operating record or not, which may

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be relevant to determine whether a permittee is in compliance with all Tribal solid waste requirements, including but not limited to this Code, any condition contained in a permit, any rules or regulations promulgated under this Code, any guidance documents, any orders issued pursuant to this Code, or any Tribal environmental laws. Failure by a permittee to provide the requested information will result in revocation of their permit.

**SECTION 6**

**PUBLIC INVOLVEMENT AND ENFORCEMENT**

**6.1 PUBLIC PARTICIPATION AND HEARINGS**

The Environment Division shall allow for public participation and shall hold one or more informal public hearings, including but not limited to the following matters prior to taking any formal action:

- (1) The creation and adoption of the Tribe's Solid Waste Management Plan;
- (2) The issuance of any rules or regulations under the Tribe's Solid Waste Management Code, including any guidance documents, as proposed by the Director of the Environment Division;
- (3) The approval of any site location for a new management facility;
- (4) The issuance of any permits for the construction and/or operation of a management facility;
- (5) The suspension of any groundwater monitoring;
- (6) The assessment of any corrective measures and selection of remedies, which may be necessary;
- (7) The approval of any covenant not to sue or any settlement of any claim against any permittee under this Code; and
- (8) Any other matters which the Environment Division deems appropriate for public participation and review.

The Environment Division shall schedule such hearings at a convenient locations, and give reasonable advance notice of the date, time and subject matter (s) of such hearing, by publication in the newspaper most widely circulated on Mohawk land. Thirty (30) calendar days advance notice is required for the issuance of any management facility permits. There shall be a reasonable opportunity for anyone to comment at such hearings, and to present any relevant information.

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## **6.2 ACTIONS ON PUBLIC COMPLAINTS**

If the Environment Division receives a credible complaint concerning any person, management facility owner/operator, or hauler, giving rise to reasonable grounds that this Code, or any of its rules or regulations, permits conditions, or environmental standards, has or is being violated; the Environment Division shall investigate the matter in accordance with Section 3.1.2 of this Code.

## **6.3 ENFORCEMENT ACTIONS**

### **6.3.1 Community Members**

In concert with community values, efforts to educate people with regard to the many hazards associated with the improper disposal of solid wastes and the benefits of using proper waste disposal to the greatest extent possible will be made prior to initiating enforcement actions. It is only when education, awareness or any other reasonable means to prevent improper waste disposal activities have failed that enforcement will be considered.

The provisions of this ordinance shall be enforceable by the St. Regis Mohawk Tribe, the St. Regis Mohawk Tribal Police Department, and delegated Conservation Officers and/or Peacemakers in accordance with rules and regulations promulgated by the Environment Division. Such rules and regulations shall include as a last resort provisions for the imposition of civil penalties, and/or injunctive relief in the event of non-compliance with this regulation.

Procedures for bringing an action concerning a violation of this Code shall follow those established by the St. Regis Mohawk Tribe for investigations, summons, and appearance before the Tribal Court.

### **6.3.2 Permitted Haulers And/Or Management Facilities**

The provisions of this ordinance shall be enforceable by the St. Regis Mohawk Tribe, the St. Regis Mohawk Tribal Police Department, and delegated Conservation Officers and/or Peacemakers in accordance with rules and regulations promulgated by the Environment Division. Such rules and regulations shall include as a last resort provisions for the imposition of civil penalties, and/or injunctive relief in the event of non-compliance with this regulation.

Procedures for bringing an action concerning a violation of this Code shall follow those established by the St. Regis Mohawk Tribe for investigations, summons, and

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appearance before the Tribal Court.

**6.4 PENALTIES/FINES**

The Tribal Court may levy financial penalties and fines and/or other form of penalty, such as restitution, against those who violate any section of this Code. Penalties and fines will be assessed according to the Tribal Court.