

**CHAPTER 13**

**KAYENTA TOWNSHIP  
SOLID WASTE ORDINANCE**

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## **SOLID WASTE ORDINANCE**

### **ARTICLE I - GARBAGE AND TRASH COLLECTION**

#### **SECTION 13-101 Title**

This Chapter shall be cited as the Kayenta Township Solid Waste Ordinance (for purposes of this Ordinance, the “Ordinance”).

History

KTCJA-03-13 (Jan. 14, 2013) adopted the initial ordinance.

#### **SECTION 13-102 Definitions**

- A. “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.
- B. “Garbage” means all putrescible wastes, except sewage and body wastes, including all organic wastes that have been prepared for, or intended to be used for food or have resulted from the preparation of food, including all such substances from all public and private establishments and residences.
- C. “Open burning” means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.
- D. “Open dump” means any facility or site where solid waste is disposed of and which does not comply with the requirements established for solid waste disposal facilities pursuant to this Ordinance and the regulations promulgated hereunder.
- E. “Open dumping” means the act of depositing solid waste in a non-complying manner or management practice.
- F. “Person” means any individual, public or private corporation, company, partnership, firm, association or society of persons; the federal, state or local governments or any of their programs or agencies, any Indian tribe, including the Navajo Nation, or any of its agencies, divisions, departments, programs, enterprises, companies, chapters or other political subdivisions.
- G. “Refuse” means all garbage, trash and brush. It does not include unacceptable waste.
- H. “Trash” means all nonputrescible waste.
- I. “Unacceptable waste” means waste that is unacceptable at the solid waste disposal facility or landfill, such as (1) pathological and biological waste (including but not limited to

sharps, needles and the like), oil sludge, cesspool or other human waste, human remains, street sweepings, large items of machinery and equipment such as automobile and vehicular parts, tires, trailers, agricultural equipment, marine vessels, or similar items, farm and other large machinery, wire and cable from industrial sources, plastics from industrial sources in excess in total of five percent of the Township's waste load, foundry sands, tree stumps, liquid wastes and slurries, explosives (including ammunition and firearms), and radioactive materials; (2) any item of waste exceeding six feet six inches in any one of its dimensions or being in whole or in part a solid mass, the solid portion of which has dimensions such that a sphere with a diameter of eight inches could be contained within such solid portion; (3) animal remains, dirt, concrete and other non-burnable construction material and demolition debris; (4) chemicals from industrial and commercial sources such as cleaning fluids, petroleum products, paints, acids, caustics, pesticides, insecticides, poisons, drugs or other materials the processing of which the Township reasonably believes would pose a threat to health or safety or the processing of which may cause damage to the solid waste disposal facility; (5) any waste which if processed, would violate or cause the violation of any judicial decision, order or action of any federal, state, or local government or any agency thereof or applicable law; and (6) Hazardous Waste, except for household hazardous waste as defined under Section 13-201(G).

### **SECTION 13-103 Collection Agency**

The Township, the collection agent of the Township, or other collectors authorized by the Kayenta Township Commission ("Commission") or by the Town Manager shall collect all refuse within the Township for disposal at the Township's solid waste disposal facility or landfill. No person, except as provided in this Chapter, shall collect or gather refuse within the Township.

### **SECTION 13-104 Collection Hours and Rates**

- A. The hours of collection of refuse shall be designated by the Town Manager.
- B. The Commission shall from time to time fix the rates and classifications for garbage and trash collection within the Township and shall make such other rules and regulations as may be necessary to properly administer and enforce this Chapter.

## **ARTICLE II - PREPARATION OF REFUSE FOR COLLECTION**

### **SECTION 13-201 Preparation of Refuse**

All refuse shall be prepared for collection and disposal as follows:

- A. Containers. The Township shall provide containers to residential customers for the accumulation, storage and collection of all garbage and trash collected by the Township. The Township will only collect garbage and refuse that is properly contained in the containers provided by the Township. Containers provided by the Township shall be kept in good repair and in a sanitary condition. Containers found to be no longer serviceable

because of disrepair or because they were maintained in an unsanitary condition may be removed by the Township. To obtain a new container from the Township, customers whose containers are no longer serviceable because of failure to keep container in good repair and in a sanitary condition will need to pay a replacement fee to the Township.

- B. Garbage and trash. Garbage and trash shall be put into securely-tied plastic garbage bags and placed by the customer in Township-provided containers. The customer is responsible for setting customer's garbage and trash out for collection in the appropriate manner and at the appropriate time.
- C. Brush. Brush, trees and tree limbs shall be cut into a size not to exceed four feet in length or fifty pounds in weight so that one person can readily load the individual pieces into a truck or chipper and shall be piled in a neat pile with all long branches parallel to one another and tied together. All metal or foreign materials shall be removed from such pile to facilitate chipping.
- D. Construction Building Materials. All owners, contractors and builders of structures shall, upon the completion of any structure, gather and haul away, at their sole cost and expense, all refuse of every nature which has resulted from the building of such structure, including all lumber scraps, shingles, plaster, brick, stone, concrete and other building materials, and shall leave the lot and all nearby premises utilized in such construction in good and clean condition. Residential customers may dispose of small amounts of building materials from time to time, provided the building materials are placed in a container as described above and such container does not contain concrete, masonry or soil, paint or hazardous waste.
- E. By-Products. Any commercial or manufacturing establishment which by the nature of its operation creates an unusual amount of by-products may be required to dispose of its own waste, in compliance with all applicable federal, state, tribal or local law.
- F. Dangerous household and hazardous waste. Dangerous household and hazardous waste, including but not limited to, batteries, household chemicals, pesticides, insecticides, fungicides, herbicides, fluorescent bulbs and mercury containing devices, used oil, gasoline, paints, varnishes, and solvents shall be placed in a proper separate container, plainly marked *DANGER*. The Township reserves the right to deny service for certain dangerous or hazardous wastes and may require the customer to properly dispose of it by other lawful means.
- G. Soil and Concrete. Waste soil, concrete, masonry blocks, sod and rocks shall be properly disposed of by the owner, tenant or occupant of the premises.

#### **SECTION 13-202 Locations for Pick Up**

- A. Garbage and Trash (Residential). All collections of garbage and trash will be made from the curb of the street.

1. Storage of containers. All containers shall be stored no closer to the street than the front building line of the residence.
  2. Location for curbside pickup. Containers to be picked up by curb-side services shall be set behind the front curb or adjoining sidewalk immediately next to the curb or sidewalk and shall be set out after 6:00 p.m. the day preceding regular collection and shall be removed from the curb by 7:00 p.m. the day of collection.
- B. Garbage and Trash (Commercial). Commercial garbage and trash containers as authorized or provided by Township shall be located in such places as authorized by the Town Manager or his/her authorized representative, but in no case shall they be located in front of the building line of a commercial building.
- C. Trash and Brush. Trash and brush shall be set at the front of the street curb on the street so as not to block the sidewalk or gutter or create a hazard to pedestrian and vehicular traffic. Such trash and brush shall be set out after 6:00 p.m. the day preceding regular collection. Any brush should be bundled and tied together.

#### **SECTION 13-203 Lids and Covers of Containers**

The lids or covers of all containers shall at all times be kept secure so that flies, insects and other animals will not have access to the contents of the containers. The lids or covers may only be removed while the containers or receptacles are being filled, emptied or cleaned.

#### **SECTION 13-204 Use of Containers**

Garbage and trash containers shall not contain unacceptable waste. Placement of hot ashes, cinders, coals or other burning material in containers is strictly prohibited.

### **ARTICLE III - OTHER METHODS OF GARBAGE AND TRASH REMOVAL**

#### **SECTION 13-301 Hauling Refuse**

It is unlawful for any person to haul or cause to be hauled any refuse on or along any public street, avenue or alley in the Township in violation of any of the provisions of this Chapter..

#### **SECTION 13-302 Receptacles to be Spillproof**

It is unlawful for any person to haul or cause to be hauled on or along any public street in the Township any refuse or garbage unless such refuse or garbage is contained in strong watertight vehicles or vehicles with watertight receptacles that are constructed to prevent any such garbage or refuse from falling, leaking, spilling, or emitting any odor.

### **SECTION 13-303 Spilled Refuse**

Any person hauling any refuse along the streets of the Township shall immediately clean up and remove any refuse that falls out of the conveyance used for hauling.

### **SECTION 13-304 Dumping Refuse**

It is unlawful for any person to place or cause to be placed any refuse upon any public or private property within the Township, except as specifically permitted by this Chapter.

## **ARTICLE IV - PROHIBITED ACTS**

### **SECTION 13-401 Disposal, Collection, Transporting, Processing**

A. It shall be unlawful for any person to:

1. Dispose of any solid waste in a manner that will harm the environment, endanger the public health, safety and welfare or create a public nuisance;
2. Dispose of any solid waste in a place other than a facility which is in compliance with these regulations and other applicable laws;
3. Dispose of bulk or non-containerized liquids in a solid waste disposal facility;
4. Collect, dispose of, transport, process or store solid waste in any manner or at any facility that is not in compliance with the provisions of this Chapter or any regulations promulgated hereunder;
5. Interfere with or prohibit inspections, entry or monitoring activities; or
6. Violate any other provision, requirement or prohibition of this Chapter, including but not limited to a regulation or plan adopted pursuant to this Chapter, a filing, reporting or notice requirement under this Chapter, or a fee assessed under this Chapter.

B. The on-site disposal of on-site generated solid waste from a family ranch or farm is not prohibited where said disposal does not, according to the Town Manager, create a public health or environmental hazard or public nuisance and is in compliance with Section 13-402.

### **SECTION 13-402 Open Burning**

All open burning is prohibited, unless specifically permitted by this Ordinance.

A. Open burning of all residential refuse is prohibited.

B. Open burning of all refuse from a commercial or industrial establishment is prohibited.

C. Open burning of the following materials is prohibited.

1. Construction and demolition waste.
2. Hazardous substances, including but not limited to, batteries, household chemicals, pesticides, used oil, gasoline, paints, varnishes, and solvents.
3. Furniture and appliances.
4. Tires or rubber materials.
5. Any plastic materials including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
6. Corrugated cardboard, container board, office paper or newspapers.
7. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.

D. Open burning of dead trees, logs, brush, stumps, leaves, and grass clippings is allowed only in accordance with all of the following provisions:

1. Open burning shall be conducted in a safe, nuisance-free manner, when wind and weather conditions minimize adverse effects and do not create a health hazard or a visibility hazard on roadways or airfields. Open burning shall be conducted in conformance with all local fire protection regulations.
2. Open burning shall be conducted only on the property on which the materials were generated.
3. Open burning under this Section is not permitted in housing subdivisions or densely populated residential areas.
4. Open burning under this Section shall only be conducted at a location at least 100 feet from the nearest building which is not on the same property.
5. Open burning shall only be conducted only during the hours of 8:00 am to 5:00 pm during the months of May through October.
6. Open burning shall be constantly attended and supervised by a competent person of at least eighteen (18) years of age until the fire is extinguished and is cold. The person

shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire.

7. No materials may be burned upon any street, curb, gutter or sidewalk.
8. Open burning of weeds, brush, and crop stubble on ranches and agricultural lands is allowed if conducted in accordance with this Subsection D.

#### **SECTION 13-404 Open Dumping**

All open dumping is prohibited.

### **ARTICLE V - REMOVAL OF LITTER**

#### **SECTION 13-501 Definitions**

In this Chapter unless the context requires otherwise:

- A. "Litter" means any rubbish, trash, weeds, filth and debris which shall constitute a hazard to public health and safety and shall include all putrescible and nonputrescible solid waste, including garbage, trash, ashes, street cleaning, dead animals, abandoned automobiles, and solid market and industrial waste; any deposit, accumulations, pile or heap of brush, grass, debris, weeds, cans, cloth, paper, wood, rubbish, or other unsightly or unsanitary matter of any kind whatsoever; and any growth of weed, brush, grass or vegetable growth to a height of over six inches.
- B. "Private Property" means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walks, driveways, porches, steps, or vestibules belonging to or appurtenant to such dwelling, house, building or other structure.
- C. "Public Places" means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- D. "Abandoned automobiles" means any motor vehicle or major portion thereof which is incapable of movement under its own power and will remain so without repair and/or reconstruction. It also means vehicles being repaired when such repairs take in excess of ninety (90) days. The absence of current vehicular registration as required by law shall be *prima facie* evidence of inoperability under this definition. This definition shall not include any motor vehicles in an enclosed building or so located upon private property as to not be readily visible from any public place or from the surrounding private property. Further, this definition shall not include any motor vehicle on the premises of a business enterprise operated in a lawful place and in a lawful manner when keeping and maintaining the vehicle is necessary to the operation of such business enterprise.

## **SECTION 13-502 Litter on Private Property**

No person shall throw or deposit litter on any occupied or unoccupied private property within the Township, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place.

## **SECTION 13-503 Owner to Maintain Premises**

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

## **SECTION 13-504 Procedure to Compel Removal of Litter**

The Town Manager shall enforce the provisions of Sections 13-502 and 13-503 hereby by prosecuting violators of said sections in the Kayenta Navajo Nation District Court pursuant to the provisions of this Code. If such prosecution fails to secure compliance with the provisions of said sections, or in the event of inability to prosecute violators by reason of failure to secure jurisdiction over their persons, the Town Manager shall compel the removal of litter by the procedures outlined in Sections 13-505 through 13-509 hereof.

## **SECTION 13-505 Notice to Remove**

To compel the removal of litter through the provisions of this Section and of Sections 13-506 through 13-509, if a person owning or controlling any property fails, neglects or refuses to remove or properly dispose of litter located on property owned or controlled by such person, he shall be given written notice by the Town Manager to remove all litter from such property within thirty days from the date the notice was received.. Such notice shall be received not less than fifteen (15) days before the date set thereon for compliance and shall contain an estimate of the cost of removal by the Township, a statement that unless the person owning or controlling the property complies within thirty (30) days from the date such written notice is received that the Township will, at the expense of the person owning or controlling the property, perform the necessary work at a cost not to exceed the estimate given in the notice, and that such person may appeal in writing to the Township within thirty (30) days from the date the notice is received and prior to the date of compliance.

## **SECTION 13-506 Service of Notice**

Notice shall be personally served on the owner or person controlling such property, by a Navajo police officer in the manner provided in Rule 4 of the Navajo Nation Rules of Civil Procedure, or mailed to the owner or person controlling such property at the address of the property by certified or registered mail. If the owner does not reside on such property, a duplicate notice shall also be sent to him by certified or registered mail at his last known address.

### **SECTION 13-507 Appeal to Commission**

Prior to the date set for compliance on the notice, the owner or person controlling such property may appeal in writing to the Commission from the demand of the Town Manager. The Commission shall at its next regular meeting after receiving the appeal, hear and determine the same. The decision of the Commission shall be final. The Commission may either affirm or reverse the decision of the Town Manager or modify the scope of work as required in the notice.

### **SECTION 13-508 Removal by the Township**

When any such person to whom notice has been given on or before the date of compliance on the notice, or within such further time as may have been granted by the Commission on appeal, fails, neglects or refuses to move from such property any and all litter, the Town Manager is authorized and directed to cause the same to be removed and disposed of at the expense of the owner or person controlling such property. Upon completion of the work, the Town Manager shall prepare a verified statement of account of the actual cost of such removal or abatement, the date the work was completed and the street address and the legal description of the property on which said work was done, including five percent for additional inspection and other incidental costs in connection therewith, and shall serve a duplicate copy of such verified statement upon the person owning or controlling such property in the manner prescribed in Section 13-506 hereof. The owner or person controlling such property shall have thirty days from the date of service upon him to appeal in writing to the Commission from the amount of the assessment as contained in the verified statement. If an appeal is not filed with the Town Manager within thirty days, then the amount of the assessment as determined by the Town Manager shall become final and binding. If an appeal is taken, the Commission shall at its next regular meeting, hear and determine the appeal and may affirm the amount of the assessment, modify the amount thereof, or determine that no assessment shall be made. The decision of the Commission shall be final and binding on all persons.

### **SECTION 13-509 Lien for Removal**

If no appeal is taken from the amount of the assessment, or if an appeal is taken and the Commission has affirmed or modified the amount of the assessment, the original assessment or the assessment as so modified shall be recorded in the Navajo Nation District Court and from the date of its recording shall be a lien on said lot or tract of land until paid. Such liens shall be subject to and inferior to any liens for Navajo Nation taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy the lien in the Navajo Nation District Court at any time after the recording of the assessment, but failure to enforce the lien by such action shall not affect its validity. The recorded assessment shall be *prima facie* evidence of the truth of all matters recited therein, and of the regularity of all proceedings prior to the recording thereof. A prior assessment for the purposes provided in this Section shall not be a bar to subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced by the same action.

**SECTION 13-510 Placement of Debris**

It is unlawful for any person to place any rubbish, trash, filth or debris upon any private or public property not owned or under the control of said person. In addition to any fine which may be imposed for violation of any provision of this Section, such person shall be liable for all costs which may be assessed pursuant to this Article for the removal of said rubbish, trash, filth, or debris.

**SECTION 13-511 Severability**

If any provision of this Ordinance, or its application to any Person or class of Persons, or to any lands or in a particular circumstance, is held invalid or unlawful for any reason by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby and shall remain in full force and effect.

**SECTION 13-512 Effective Date; Publication**

- A. The effective date of this Ordinance is \_\_\_\_\_, 2016.
- B. The Town Manager shall promptly upon enactment of this Ordinance make available and, to the extent deemed appropriate, distribute and/or post copies of this Ordinance to members of the public within the Township.