

Title 4. Environment and Natural Resources - Chapter 405

Tsi? Tetwatlahtste Kahle Tsi? Yeyakotyeh tákhwa?

where the things are used over and where the garbage is kept

SOLID WASTE DISPOSAL

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405.1. Purpose and Policy

405.1-1. *Purpose.* The purpose of this law is to set forth the process by which the Oneida Nation will reduce, manage, and dispose solid waste within the jurisdictional boundaries of the Nation.

405.1-2. *Policy.* It is the policy of the Nation to protect the health, safety, and welfare of the community by prohibiting methods of solid waste disposal that could have an adverse impact on members of the community or the environment and by implementing a solid waste management program that emphasizes reducing, reusing, and recycling the majority of solid waste within the Reservation.

405.2. Adoption and Amendment

405.2-1. This law was adopted by the Oneida Business Committee by resolution BC-12-14-94-A and amended by resolutions BC-2-15-95-K, BC-11-9-98-A and BC-04-22-26-C.

405.2-2. This law may be amended or repealed by the Oneida Business Committee or General Tribal Council pursuant to the procedures set out in the Legislative Procedures Act.

405.2-3. Should a provision of this law or the application thereof to any person or circumstances be held as invalid, such invalidity shall not affect other provisions of this law which are considered to have legal force without the invalid portions.

405.2-4. In the event of a conflict between a provision of this law and a provision of another law, the provisions of this law shall control.

405.2-5. This law was adopted under the authority of the Constitution of the Oneida Nation.

405.3. Definitions

405.3-1. This section shall govern the definitions of words and phrases used within this law. All words not defined herein shall be used in their ordinary and everyday sense.

(a) “Customer” means all residential and commercial properties within the Reservation who use the Nation’s service provider and dumpsters and bins, authorized by the Nation or its service provider to collect solid waste.

(b) “Designated Agent” means the person responsible for coordinating the collection of solid waste at a non-residential facility or property.

(c) “DPW” means the Oneida Nation Division of Public Works.

(d) “Explosive Material” means any material, mixture, or compound with explosive or flammable properties such as dynamite, dynamite caps, shotgun shells, rifle cartridges, gunpowder, fireworks, gasoline, or certain chemicals.

(e) “E-waste” means a type of solid waste which contains large electronics and other hazardous waste including lead, mercury, cadmium, chromium, and other heavy metals and chemical flame retardants.

- (f) “Hazardous Waste” means any solid waste defined as hazardous waste by the U.S. Environmental Protection Agency under the provisions of the Resource Conservation and Recovery Act of 1976 as amended.
- (g) “LEAF” means the Oneida Nation Land, Environmental, Agriculture, and Food Division.
- (h) “Major appliances” means non-portable or semi-portable machines used for housekeeping tasks and maintenance like temperature control, cooking, food preparation and storage, and cleaning and include items such as a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater, or stove.
- (i) “Medical waste” means solid waste that contains pathogens with sufficient virulence and in sufficient quantity that exposure could cause the human or animal exposed to contract an infectious disease; or any waste generated in the diagnosis, treatment, or immunization of humans or animals.
- (j) “Multi-family dwelling” means a property containing five (5) or more residential units, including those which are occupied seasonally.
- (k) “Nation” means the Oneida Nation.
- (l) “Non-residential facilities and properties” means commercial, retail, industrial, institutional, and governmental facilities, or properties. This term does not include multi-family dwellings.
- (m) “Nuisance” means a thing, condition, or use of property which continues for such length of time as to:
- (1) substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
 - (2) in any way render the public insecure in life or in the use of property; or greatly offend the public morals or decency; or
 - (3) unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable waters or other public way, or the use of public property.
- (n) “Person” means a natural person, as well as a business entity, corporation, partnership, association, governmental unit, or agency of any governmental unit.
- (o) “Recyclable materials” means materials resulting from residential or commercial activities that can be recovered through processes to regain that material for human or animal use.
- (p) “Reservation” means all property within the exterior boundaries of the reservation of the Oneida Nation, as created pursuant to the 1838 Treaty with the Oneida, 7 Stat. 566., and all lands added thereto pursuant to federal law.
- (q) “Service provider” means the company contracted with the Nation to provide collection services for solid waste collected within the Reservation.
- (r) “Sewage” means water-carried solid waste created in, and to be conducted away from, residences, industrial establishments, and public buildings.
- (s) “Sharps” means an object with sharp points or edges that can puncture or cut skin.
- (t) “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.

(u) “SMMP” means the Sustainable Materials Management Plan developed and maintained by DPW and LEAF to outline how the Nation will reduce, manage, and dispose of all solid waste generated within the Reservation.

(v) “Solid waste” means solid, semi-solid, liquid, discarded, salvageable, and recyclable material. Solid waste may consist of the following categories:

- (1) garbage, which is waste resulting from the handling, cooking, processing, preparing, serving, storing, and consuming food, including fish, fowl, fruits, vegetables, or other matter which is subject to decomposition and decay;
- (2) waste material resulting from typical residential activity, public service activities, and manufacturing;
- (3) construction or demolition waste, which is waste resulting from building construction or demolition, alteration, or repair, including excavated material, remodeling, and other waste such as windows, doors, drywall, framing and roofing material, flooring, cabinets and counter tops, concrete, stone, asphalt, sod, earth, dirt, and brick;
- (4) refuse, which is all nonrecyclable waste resulting from industrial or commercial operations including but not limited to cans, bottles, plastic, paper, ashes, glass, lawn and garden waste, metal, rubber, street waste, wood, cloth, litter, litter, leaves, shrubbery, brush, and cardboard; and
- (5) recyclable materials, which are waste materials that can be recovered through processes to regain that material for human or animal use.

(w) “Yard waste” means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material no greater than six (6) inches in diameter. This term does not include trees, stumps, roots, or shrubs with intact root balls.

405.4. Application

405.4-1. This law governs the management of solid waste within the Reservation.

(a) Solid waste shall be handled, stored, collected, transported, transferred, processed, recycled, and disposed of in accordance with the provisions of this law, the most current version of the SMMP, and the applicable provisions of the Resource Conservation and Recovery Act as amended.

(b) The SMMP shall be interpreted in a manner consistent with this law to the greatest extent possible.

- (1) In the event there is an irreconcilable conflict between a provision of this law and a provision of the SMMP, the provision of this law shall govern.

405.5 Authority

405.5-1. DPW and LEAF shall be delegated the authority to administer the provisions of this law which shall include but not be limited to:

(a) overseeing the implementation and enforcement of this law and the SMMP including the authority to delegate certain of those duties to other agencies of the Nation or to third-party service providers for implementation;

(b) following the Nation’s RFP process for the procurement of third-party service providers;

- (1) all third-party service providers shall be State licensed solid waste transporters;

- (c) developing and amending the SMMP to be consistent with this law and at least once every five years and subject to approval by the Oneida Business Committee through resolution;
- (d) developing a fine and penalty schedule, subject to approval by the Oneida Business Committee through resolution;
- (e) DPW, LEAF, and the service provider shall take reasonable measures to ensure that the public is aware and informed of the requirements of this law and the SMMP which may include sending new customers collection requirements, notifying the public through publication and making information available to the public for inspection at the offices of DPW or LEAF during normal business hours;
 - (1) any person in doubt as to the proper preparation, handling, and disposal of any type of solid waste should contact DPW, LEAF, or the service provider for instruction;
- (f) conducting inspections, as well as investigating complaints, to ensure that solid waste is managed in accordance with this law and the SMMP;
 - (1) no person may refuse access to any person authorized in this section who requests access for purposes of inspecting an alleged violation based on probable cause and who presents appropriate credentials;
- (g) determining if the storage or disposal of solid waste has created a nuisance;
- (h) issuing a citation to persons found in violation of this law in an amount set forth in the fine and penalty schedule adopted by resolution of the Oneida Business Committee and pursuant to the Nation's Citation Law;
 - (1) each day of a continuing violation may be charged as a separate violation and the officer may issue a separate citation;
- (i) making referrals to the Oneida Police Department, the Oneida Conservation Department, or the Zoning Department, when deemed necessary, for further investigation or enforcement consistent with this law;
- (j) notifying all customers of the Nation of the terms and conditions for collection; and
- (k) making reasonable rules for the regulation and administration of this law as may be necessary for the proper storage, collection, removal, and disposal of solid waste within the Reservation.

405.5-2. The Oneida Police Department shall be delegated the authority to enforce the provisions of this law which shall include but not be limited to:

- (a) investigate complaints and referrals from DPW or LEAF for suspected violations of this law;
- (b) obtain a search warrant and conduct inspections if necessary to enforce the provisions of this law;
 - (1) no person may refuse access to any person authorized in this section who requests access for purposes of inspecting an alleged violation based on probable cause and who presents appropriate credentials; and
- (c) issue citations consistent with the fine and penalty schedule developed by DPW and LEAF and approved by the Oneida Business Committee;
 - (1) each day of a continuing violation may be charged as a separate violation and the officer may issue a separate citation.

405.6. Collection and Disposal of Solid Waste

405.6-1. *Mandatory Curbside Collection.* All approved solid waste shall be collected from customers provided such materials are properly handled, prepared, contained, stored, and located. Curbside collection is generally for residential customers.

405.6-2. *Collection Preparation and Storage Requirements.* Customers located within the Reservation must adhere to the following:

- (a) only approved bins provided by the Nation or its service provider are acceptable for collection;
- (b) all solid waste shall be maintained in such a manner as to prevent the creation of a nuisance to public health and safety;
- (c) when placed for curbside collection, containers shall not be placed in a manner that obstructs driveways, legally parked vehicles, and snow removal efforts;
- (d) to the greatest extent practicable, solid waste should be clean and kept free of hazardous waste or medical waste; and
- (e) solid waste shall be stored in a manner that protects it from wind, rain, and other inclement weather conditions.

405.6-3. *Collection Requirements.* DPW shall provide a collection service within the Reservation that includes, at a minimum:

- (a) periodic collection of solid waste; provided, such waste is properly handled, prepared, contained, and stored in accordance with this law and the SMMP; and
- (b) the issuance of containers that are adequate for the storage of collectable solid waste.

405.6-4. The following shall apply to the collection and disposal of all solid waste within the Reservation, regardless of the curbside service provider:

- (a) All solid waste shall be collected and transported in a manner that prevents the waste from leaking, blowing off, or falling from the transport vehicle.
- (b) No commercial solid waste transporter shall operate or conduct business within the Reservation without a solid waste transport license issued from the State of Wisconsin.

405.6-5. *Separation.* Occupants of single and two-to-four-unit residences, multi-family dwellings, and the designated agent at non-residential facilities and properties shall separate certain items from solid waste in accordance with the terms and conditions of collection as provided by the service provider. Some items that must be separated from solid waste are likely not collectable and some are likely collectable only during a special collection.

405.6-6. *Right to Reject.* LEAF or its designated collection and transportation service reserve the right to refuse to collect any solid waste that is not handled, prepared, contained, stored, or located in accordance with this law or the SMMP.

405.6-7. *Special Collections.* The collection of some items will be scheduled annually and posted on the Nation's website.

405.7 Non-Collectable Solid Waste

405.7-1. No person may place for curbside collection or deposit at any location within the Reservation any of the following types of solid waste:

- (a) hazardous waste;
- (b) pesticides;
- (c) medical waste;
- (d) asbestos;
- (e) sludge;
- (f) industrial or commercial waste from any industrial or commercial facility or operation;

- (g) residue or debris from the clean-up of a chemical discharge or chemical residue and debris from any facility or operation using chemicals in any commercial, agricultural, or industrial process;
- (h) medical waste;
- (i) sewage;
- (j) deer carcasses or other large animal carcasses weighing over one hundred (100) pounds; collection of which is subject to the terms and conditions of service agreements between the Nation, surrounding Counties and municipalities, and the State;
- (k) trees or any other material that does not meet the definition of yard waste;
- (l) wood treated with chemical preservatives;
- (m) explosive material;
- (n) material that would otherwise be recyclable material but is contaminated by hazardous or medical waste;
- (o) e-waste;
- (p) any other material expressly prohibited by the SMMP if DPW has provided adequate, advanced notice to the public; and
- (q) any item expressly prohibited by the service provider.

405.8. Non-Residential Facilities and Properties and Multi-Family Dwellings

405.8-1. Owners of non-residential facilities and properties and multi-family dwellings or their designated agents shall do the following:

- (a) provide adequate, separate containers for solid waste and provide a collection and delivery service of those solid wastes to a processing facility;
- (b) notify, in writing, at the time of signing the lease and annually thereafter, all users, tenants, and occupants of the property about this law and the SMMP; and
- (c) notify users, tenants, and occupants of which materials are collected, how to prepare the materials in order to meet the collection and processing requirements of this law and the SMMP, the collection methods, or sites, including address and hours of operation, and the contact person or company, including name, address, and telephone number.

405.9. Prohibitions

405.9-1. Unless authorized, no person shall:

- (a) burn solid waste;
- (b) dump, deposit, or throw solid waste from a stopped or moving vehicle upon a highway, road, or right of way within the Reservation;
- (c) dump, dispose, throw, or leave solid waste in any waterway located within the Reservation, at any time of the year;
- (d) dump, dispose, or leave solid waste within the Reservation in a dumpster or waste bin that does not belong to that customer and is not authorized for that customer's use;
- (e) store, handle, dump, deposit, leave, or throw solid waste in any way reasonably likely to cause a nuisance;
- (f) neglect or refuse to clean up and remove from the premises any solid wastes that are stored in violation of this law and when ordered to do so by DPW, LEAF, the Oneida Police Department, or the Nation's Zoning Department; and

(g) dump, dispose, or leave solid waste within the Reservation in a location or manner not authorized by the SMMP or that would violate this law, the Public Peace law, or any other law of the Nation.

405.10. Right to Refuse Collection

405.10-1. If solid wastes are not properly handled, prepared, contained, stored, or located, the service provider may not collect.

- (a) Instead of collecting, the service provider may leave a notice explaining the reason for non-collection and allowing the customer time to correct, typically until the next collection.
- (b) If the customer has not corrected by the next collection, the service provider will notify DPW for enforcement under this law.

End.

Adopted – BC-12-14-94-A
Amended – BC-2-15-95-K
Amended – BC-11-9-98-A (Emergency amendments – expired)
Amended – BC-04-22-26-C