

## **Solid Waste Act**

### **CHAPTER 20. SOLID WASTE ACT<sup>1</sup>**

#### **YSMNC 20.1 Short Title**

This Chapter shall be known and cited as the Solid Waste Act (hereinafter “Act”).

#### **YSMNC 20.2 Purpose and Intent**

This Act is adopted by the Yuhaaviatam of San Manuel Nation, a federally recognized Indian tribe (“Nation” or “Tribe”), in recognition that the sanitary and environmentally-sound disposal of Solid Waste is important to the health, welfare and safety of the public and residents, and natural resources of the San Manuel Reservation (“Reservation”) and all other lands title to which is held by the United States of America in trust for the benefit of the Nation, however previously referenced or denominated (“Trust Lands”). In addition, this Act sets forth requirements to reduce, reuse and/or recycle waste in order to reduce the amount of waste requiring final disposition.

Pursuant to the customs, traditions, and generally accepted practices of the Nation, education shall be prioritized when enforcing this Act, with the goal of preventing future violations. When Tribal Citizens are involved, all reasonable measures shall be taken to favor informal dispute resolution and to avoid punitive enforcement, unless necessary under the circumstances.

#### **YSMNC 20.3 Authority**

The Yuhaaviatam of San Manuel Nation has an inherent right to protect and respect its ancestral lands. This Act is promulgated based on the inherent authority of the Nation to protect the health, safety, welfare, sovereignty and environment of (i) the Reservation, (ii) Trust Lands, and (iii) all other lands, including but not limited to its ancestral territory lands, to the greatest extent permitted under federal or other applicable law.

#### **YSMNC 20.4 Applicability**

This Act applies to the activities of any Person who enters on to the Reservation or Trust Lands. This Act shall not apply to cultural, sacred or traditional practices whether communal or personal to Tribal Citizens, including but not limited to, candle lighting, cultural burns, and burials.

#### **YSMNC 20.5 Definitions**

20.5.1 “**Abandoned Vehicle**” shall mean any vehicle or parts thereof left unattended for more than 30 days within the exterior boundaries of the Reservation or Trust Lands, including public areas, Tribal government operations property, public roadways, or a Residential Lot Assignment without the consent of the owner of said Residential Lot Assignment. Except that, nothing herein shall preclude the Nation from taking timely action against a Dangerous Vehicle that poses an immediate threat to the health or safety of the Nation, Reservation or Trust Lands.

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<sup>1</sup> Adopted by the General Council on June 11, 2002, and amended on October 13, 2009 and May 10, 2016. Amended by the Tribal Authorities on May 14, 2024.

## **Solid Waste Act**

20.5.2 **“Collection Site”** shall mean any place where Solid Wastes are present.

20.5.3 **“Collector”** shall mean any Person, and that Person’s employees and agents, who gather from another Person that Person’s Solid Waste.

20.5.4 **“Complaint”** shall mean the allegations of violation of this Act set forth in writing and submitted to the San Manuel Tribal Court with a request for discipline, as described in Section 20.11 below.

20.5.5 **“Dangerous Vehicle”** shall mean a vehicle or parts thereof that, in the determination of the Environmental Department or DPS poses a threat to the health and/or safety of the Nation or Reservation or Trust Lands.

20.5.6 **“Department of Public Safety”** or **“DPS”** means the Nation’s Department of Public Safety, its successor department, or its designee.

20.5.7 **“Disposal Site”** shall mean any place where Solid Waste is placed with the intent to permanently abandon or dispose of the Solid Waste.

20.5.8 **“Environmental Coordinator”** shall be the individual appointed by the Tribal Council, or if no one is appointed, the Tribal employee then currently overseeing the Environmental Department.

20.5.9 **“Environmental Department”** shall be the Nation’s Department of Environmental Department, its successor department, or its designee.

20.5.10 **“Governing Council”** shall mean the governing body of the Nation pursuant to Article II of the Yuhaaviatam of San Manuel Nation Constitution.

20.5.11 **“Hazardous Waste”** shall mean 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, as well as any Solid Waste that because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment, including but not limited to petroleum-based products, friable asbestos, lead, polychlorinated biphenyls, sealants, pesticides, herbicides, and electrical waste (e.g., batteries, electronics, light bulbs, and ballasts).

20.5.12 **“Nation”** shall mean the Yuhaaviatam of San Manuel Nation, a federally recognized Indian tribe.

20.5.13 **“Person”** shall mean any individual person as well as any natural or legal entity.

20.5.14 **“Residential Lot Assignment”** shall mean a “Residential Lot Assignment” or its amended term, as defined by the Nation’s Residential Lot Act, as amended.

20.5.15 **“Respondent”** shall mean a Person who is alleged to have violated this Act in a Complaint.

20.5.16 **“Responsible Party”** shall mean the owner, occupant, or Tribal employee(s) in charge of operations, of any premises, business, establishment, or industry on the Reservation or Trust Lands, or their authorized designee.

## **Solid Waste Act**

20.5.17 “**Solid Waste**” shall mean all decayable and non-decayable solid, semi-solid and liquid waste including but not limited to garbage, rubbish, trash, refuse, deceased animals, abandoned vehicles and parts thereof, and other discarded waste material resulting from community, commercial, agricultural, industrial, and other human activities, including hazardous waste, but does not include dewatered, treated or chemically fixed domestic sewage.

20.5.18 “**Tribal**” when capitalized, shall mean of or relating to the Yuhaaviatam of San Manuel Nation.

20.5.19 “**Tribal Authorities**” shall mean the Governing Council collectively with the General Assembly, pursuant to Article II of the Yuhaaviatam of San Manuel Nation Constitution.

20.5.20 “**Tribal Citizen**” shall mean any duly enrolled Tribal Citizen of the Yuhaaviatam of San Manuel Nation.

20.5.21 “**Tribal Council**” shall mean the Yuhaaviatam Tribal Council of San Manuel, the representative body duly elected from the Governing Council, established under the Yuhaaviatam of San Manuel Nation Constitution.

### **YSMNC 20.6 Solid Waste Storage**

20.6.1 Solid Waste within the boundaries of the Reservation or Trust Lands shall be handled, stored, collected, transported, transferred, processed, and disposed of in accordance with the provisions of this Act and applicable federal law, Tribal law, and Tribal policies.

20.6.2 The applicable Responsible Party shall be responsible for the sanitary storage of all Solid Waste accumulated at the premises, business establishment, or industry as set forth herein.

### **YSMNC 20.7 Solid Waste Disposal**

20.7.1 No Person shall leave, deposit, or dump Solid Waste anywhere within the Reservation or Trust Lands except in an appropriate container at designated Disposal Sites or Collection Sites approved by the Tribal Council or its designee.

20.7.2 Persons not authorized to be on the Reservation or Trust Lands shall not dispose of Solid Waste anywhere within the Reservation or Trust Lands. No Person shall dispose of Solid Waste on any private or public residential property, where disposal of such Solid Waste will cause a public nuisance or health hazard, including without limitation, the release of noxious odors or the infestation of insects or rodents.

20.7.3 No Person shall deposit Solid Waste from any stopped or moving vehicle onto highways, roads, or right of ways within the Reservation or Trust Lands or otherwise in contravention of applicable law.

20.7.4 No Person shall dispose of any Hazardous Waste within the Reservation or Trust Lands.

### **YSMNC 20.8 Solid Waste Collection and Transportation**

20.8.1 All Solid Waste transported through or off the Reservation or Trust Lands shall be collected and transported by or at the direction of the Tribal Council or its designee, or a Responsible Party, in a manner that is timely and prevents the waste from leaking, blowing off,

## **Solid Waste Act**

or falling from the transport vehicle and that otherwise prevents noxious odors and other public nuisance conditions.

20.8.2 Each applicable Responsible Party shall ensure that vehicles or containers used for collection and transportation of garbage are consistent with this Act and other applicable law.

20.8.3 No Collector or transporter of Solid Waste shall operate or conduct business on the Reservation or Trust Lands without the approval of the Tribal Council or its designee.

20.8.4 All residential and commercial trash collection areas on the Reservation or Trust Lands shall conform to design specifications consistent with Tribal law and applicable health and safety standards.

20.8.5 Within one hundred twenty (120) days from the date of the Tribal Authorities' approval of this amended Act, the Environmental Department and Department of Public Safety ("DPS") shall adopt all necessary polices and/or regulations to implement this Act, including but not limited to, addressing informal resolution of violations, further defining Abandoned Vehicles and Dangerous Vehicles, and establishing the processes for identifying and notifying vehicle owners, and removing Abandoned Vehicles and Dangerous Vehicles.

### **YSMNC 20.9 Solid Waste Recycling**

The Governing Council, through its designees, will encourage businesses and residences to cooperate with waste reduction, reuse, and recycling programs and policies that have been established for the purpose of reducing waste and disposal costs and conserving natural resources, including encouraging businesses to strive toward a "zero waste" environment in accordance with the Nation's mission, vision, and values. Unless otherwise designated by the Governing Council, the Nation's Environmental Department, or its successor department, shall have responsibility for facilitating a solid waste recycling program in line with the Nation's mission, vision, and values.

### **YSMNC 20.10 Illegal Dumping on Lands of the Nation**

It shall be unlawful for any Person to dump, deposit, throw, burn, or in any manner leave or abandon on the Reservation or Trust Lands any Solid Waste, including trash, ashes or incinerator residue, street refuse, deceased animals, demolition waste, construction waste, solid or semi-solid commercial and industrial waste, Hazardous Waste, explosives, pathological waste, chemical waste, herbicides, pesticides, or any scrap materials, without the written permission of the Tribal Council or its designee. Notwithstanding the foregoing, this Section 20.10 shall not apply to cultural and/or sacred practices conducted by Tribal Citizens on the Reservation or Trust Lands. Any party in violation of this Act, in addition to the penalties imposed herein, shall also be subject to a fine and/or other punishment as provided by applicable law.

### **YSMNC 20.11 Notice and Hearing**

20.11.1 The Environmental Department and DPS shall be responsible for enforcing the provisions of this Act. In addition to the Environmental Department, DPS, in consultation with the Environmental Department, is hereby authorized to enforce this Act by issuance of citations for violations of this Act, as amended.

## **Solid Waste Act**

20.11.2 A Respondent may be subject to proceedings in the San Manuel Tribal Court (“Court”) if a Complaint is filed within ninety (90) days of the alleged violation, or within ninety (90) days of the complainant (“Petitioner”) learning of the alleged conduct, provided such filing occurs within one (1) year of the date of the alleged violation. For purposes of this Act, the Petitioner shall be limited to the Nation, including the Environmental Department or DPS on behalf of the Nation. A Complaint shall allege the particulars of the conduct in question, including the date, place, and description of the events. The Court shall conduct a hearing on the Complaint in accordance with Tribal law and court rules governing judicial proceedings. The determination of the Court, subject to all applicable appeal rights, shall be final.

20.11.3 Any Person may report alleged violations of this Act, either anonymously or by name, to the Environmental Department or DPS, who shall develop a tracking process to update the reporting individual on each reported violation to the extent permitted. If requested, the name of the reporting Person shall be kept confidential unless and until necessary for the underlying investigation. If the accused is a Tribal Citizen, and upon investigation the Environmental Department determines that a violation has not occurred by the Tribal Citizen, formal written documentation shall be provided to the accused Tribal Citizen and DPS, and maintained by the Environmental Department for their records. If upon investigation the Environmental Department determines that a citation should be issued against a Tribal Citizen, an informal preliminary notice seeking compliance with this Act may be provided by the Environmental Department, or DPS in consultation with the Environmental Department, to the Tribal Citizen prior to issuing a citation and filing a formal Complaint in Court. If this informal preliminary notice is provided to a Tribal Citizen, then this process should be handled with care and transparency, including keeping the Tribal Citizen informed of developments or progress in the resolution of the investigation. If after a reasonable amount of time, the Tribal Citizen has not cured the alleged violation, then the Environmental Department, or DPS in consultation with the Environmental Department, may proceed by issuing a citation and filing a formal Complaint in Court pursuant to 20.11.1 and 20.11.2 above.

20.11.4 Notwithstanding the forgoing, for extreme or hazardous situations in which a violation of this Act is so egregious or puts the health and welfare of Tribal Citizens in danger, the Nation may immediately issue a citation and file a formal Complaint in Court to obtain an enforceable order regardless of whether the Person/Responsible Party is a Tribal Citizen or not.

### **YSMNC 20.12 Fines and Collection**

20.12.1 The cost of cleanup/remediation and a fine shall be imposed against the Respondent for each offense under this Act. Any Respondent found in violation of this Act after due process of law before the Court shall be subject to the following:

- (a) First Violation. Between \$200.00 - \$1,000.00 in fines and/or community service, to be determined by the Court, plus the cost of cleanup and remediation.
- (b) Second Violation. Between \$500.00 - \$1,500.00 in fines and/or community service, to be determined by the Court, plus the cost of cleanup and remediation.
- (c) Third and Subsequent Violation. Between \$750.00 - \$3,000.00 in fines and/or community service, to be determined by the Court, plus the cost of cleanup and remediation.

## **Solid Waste Act**

- (d) If the violation involves Hazardous Waste, fines may increase up to \$5,000.00, to be determined by the Court, plus the cost of cleanup and remediation.

20.12.2 The Court may issue appropriate injunctive relief prohibiting violations of the Act or requiring remediation of violations.

20.12.3 Such fines shall be payable no less than fifteen (15) days after the final decision by the Tribal Court.

20.12.4 Any monetary judgments imposed by the Court shall constitute a lien against any monies due to the Respondent, but only when, as, and if payable. No liens shall be imposed upon the Tribal treasury as such. The Tribal treasurer, or any trustee or other Person who disburses treasury funds, shall be notified promptly of such lien, and if such fines are unpaid when Tribal monies are due to be paid, Tribal treasurer or trustee shall not disburse any Tribal monies to the Respondent but instead shall credit the Tribal general fund with the amount of the monetary judgment or such portion thereof as may be due to the Nation.

### **YSMNC 20.13 Administration**

The Governing Council delegates to the Environmental Coordinator the duty of day-to-day administration of this Act and any Tribal Solid Waste collection programs, policies, facilities, and systems. The Nation through its relevant departments shall collaborate to develop policies and implement measures striving to identify, prevent and remove hazards on the Reservation and Trust Lands, including business activities that may not currently fall within the definition of Solid Waste or Hazardous Waste under this Act but that may nonetheless create a hazard to the health and well-being of the Nation.

### **YSMNC 20.14 Cooperation with Other Governmental Agencies**

The Environmental Coordinator is hereby directed to cooperate with federal, state, and local environmental protection regulatory agencies to address the enforcement of applicable federal environmental laws on the Reservation and Trust Lands and applicable state and local environmental laws for non-Reservation/non-Trust Lands properties.

### **YSMNC 20.15 Severability and Non-Liability**

If any section, provision, or portion of this Act is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Act will not be affected hereby. The Governing Council declares there is no liability on the part of the Nation, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this Act.

### **YSMNC 20.16 Tribal Sovereign Immunity**

Nothing contained within this Act shall be deemed to constitute a waiver or diminution of any type whatsoever of the Nation's sovereign immunity from unconsented suit, which sovereign immunity is hereby expressly reaffirmed.