

CHAPTER 38 - RECYCLING

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**CHAPTER 38 - RECYCLING**

**38.1            SECTION 1: PURPOSE AND SCOPE**

**38.1.1**        Purpose.        The purposes of this ordinance are: (a) to promote and protect the land, water, health, safety, and well-being of the Red Cliff tribal community and surrounding area; (b) to ensure that efficient and environmentally sound recycling is practiced on the Red Cliff Indian Reservation; and (c) to regulate recycling by providing procedural guidelines and planning for the administration and enforcement of ordinance violations.

**38.1.2**        Scope.        This ordinance applies to recycling activities on the Red Cliff Indian Reservation. This ordinance applies to all residences, tribal programs, tribal and non-tribal enterprises or businesses located within the exterior boundaries of the Reservation.

**38.2            SECTION 2. JURISDICTION, EFFECTIVITY, AND SEVERABILITY**

**38.2.1**        Jurisdiction.        The jurisdiction of this Ordinance shall include all lands and waters within the exterior boundaries of the Red Cliff Indian Reservation, as well as any lands adjacent to the reservation that may affect reservation lands and waters.

**38.2.2**        Effective Date.        This Ordinance shall be effective upon the date of adoption by resolution of the Red Cliff Tribal Council, until amended or otherwise expressly invalidated by the Tribal Council through affirmative legislation.

**38.2.3**        Severability Clause.        If any section, provision, or portion of this Ordinance is judged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

- 38.3**        **SECTION 3. DEFINITIONS.**    As used in this Ordinance, the following phrases and words shall have the following definitions:
- 38.3.1**        "BI-METAL CONTAINER" means a container for beverages that is made primarily of a combination of steel and aluminum.
- 38.3.2**        "COLLECTOR" means any person or business that collects and transports solid waste and/or recyclable materials.
- 38.3.3**        "CONTAINER BOARD" means corrugated paperboard used in the manufacture of shipping containers and related products.
- 38.3.4**        "FOAM POLYSTYRENE PACKAGING" means packaging made primarily from foam polystyrene that satisfies one of the following criteria:
- (a) Is designed for serving food or beverages.
  - (b) Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
  - (c) Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.
- 38.3.5**        "GARBAGE" means animal and vegetable waste resulting from the handling, preparation, cooking, and/or consumption of foods.
- 38.3.6**        "HDPE" means high density polyethylene, labeled by the SPI code #2.
- 38.3.7**        "LDPE" means low density polyethylene, labeled by the SPI code #4.
- 38.3.8**        "MAGAZINES" means magazines and other materials printed on similar paper.
- 38.3.9**        "MAJOR APPLIANCE" means a residential or commercial air conditioner, washer or dryer, dishwasher, microwave, oven, or refrigerator.

- 38.3.10** "NEWSPAPER" means newspaper and other materials printed on newsprint.
- 38.3.11** "NON-RECYCLABLE MATERIAL" means Pyrex glass, window glass, light bulbs, mirrors, broken glass, china, styrofoam and melamine type plastics, waxed paper, waxed cardboard, envelopes with gummed labels or plastic windows, glossy paper, garbage, rubbish, bottle or jar caps, and any material for which there is no destination point for reclamation or processing.
- 38.3.12** "OFFICE PAPER" means high-grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper. This term does not include industrial process waste.
- 38.3.13** "OTHER RESINS OR MULTIPLE RESINS" means plastic resins labeled by the SPI code #7.
- 38.3.14** "PERSON" means a natural person, as well as a corporation, institution, or other entity.
- 38.3.15** "PETE" means polyethylene terephthalate, labeled by SPI code #1.
- 38.3.16** "PLASTIC CONTAINER" means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.
- 38.3.17** "POLLUTION" shall refer to the discharge of any waste, rubbish, sewage, garbage, trash or other harmful or unsightly substance into any waters or onto any lands.
- 38.3.18** "PP" means polypropylene, labeled by SPI code #5.
- 38.3.19** "PS" means polystyrene, labeled by the SPI code #6.
- 38.3.20** "PVC" means polyvinyl chloride, labeled by the

- SPI code #3.
- 38.3.21 "RECYCLABLE MATERIAL" means lead acid batteries, major appliances, waste oil, yard waste, aluminum containers, corrugated paper or other container boards, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers, including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins as defined herein, steel containers, waste tires, and bi-metal containers.
  - 38.3.22 "RUBBISH" means combustible and non-combustible refuse, including paper, wood, metal, glass, cloth, litter, yard waste, ashes, lumber, and concrete.
  - 38.3.23 "SOLID WASTE" means all garbage, refuse, rubbish, trash, construction and demolition materials, yard waste, dead animals, and solid materials generated from residential, commercial, and industrial activities. Solid waste does not include hazardous waste and human body waste.
  - 38.3.24 "SPI" means Society of the Plastics Industry, which created the seven codes to identify the resins used in plastic packaging.
  - 38.3.25 "WASTE TIRE" means a tire that is no longer suitable for its original purpose because of wear, damage or defect.
  - 38.3.26 "YARD WASTE" means leaves, grass clippings, yard and garden debris and brush, including clean woody vegetative material.

**38.4 SECTION 4. DISPOSAL OF RECYCLABLES AND GENERAL PROVISIONS.**

- 38.4.1 Solid Waste. Non-recyclable materials shall be disposed of at a designated/approved transfer station.
- 38.4.2 Responsibilities of Owners or Designated Agents of Multiple-Family Dwellings and Designated Agents of Non-Residential Facilities and Properties.

(1) Owners or designated agents of multiple-

family dwellings shall do all of the following to recycle the materials specified in this section.

- (a) Provide adequate, separate containers for the recyclable materials.
  - (b) Notify tenants in writing at the time of renting or leasing the dwelling and at least semi-annually thereafter about the established recycling program.
  - (c) Provide for the collection of the materials separated from the solid waste by the tenants and the delivery of the materials to a recycling facility.
  - (d) Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including name, address and telephone number.
- (2) The requirements specified in (1) do not apply to the owners or designated agents of multiple-family dwellings or designated agents of non-residential facilities and properties if the post consumer waste generated within the dwelling is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in this section and section 38.4.3 from solid waste in as pure a form as is technically feasible.

**38.4.3** Preparation and Disposal of Recyclables. Occupants of single family and 2-4 unit residences, multiple-family dwellings and non-residential facilities and properties shall

separate all recyclable materials according to the brochure developed by the Red Cliff Environmental Protection Department. Recyclable materials shall be clean and free of debris and disposed of through roadside pick-up. Designated collection dates and times shall be determined by the collector. To the greatest extent practicable, all recyclable materials separated shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials. Recyclable materials shall be stored in a manner, which protects them from wind, rain, and other inclement weather conditions.

**38.4.4** Separation. The following materials shall be separated from one another:

- (1) Lead acid batteries
- (2) Major appliances
- (3) Waste oil
- (4) Yard waste
- (5) Aluminum containers
- (6) Bi-metal containers
- (7) Corrugated paper or other container board
- (8) Foam polystyrene packaging
- (9) Glass containers
- (10) Magazines
- (11) Newspaper
- (12) Office paper
  
- (13) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins.
- (14) Steel containers

(15) Waste tires

(16) Scrap metals

**38.4.5** General Provisions.

- (a) The Red Cliff Recycling site shall not accept any solid waste material or non-recyclable material.
- (b) No person shall dispose of recyclables at any designated collection site except during established operating hours.
- (c) No person shall dispose of recyclable material through solid waste disposal.
- (d) Recyclables shall only be disposed of through roadside pick-up or dropped off at a recycling transfer station during established operating hours.
- (e) Vehicle batteries shall be properly disposed of at a business that accepts them.
- (f) It shall be illegal to salvage/scavenge any waste materials except by permit).
- (g) It shall be illegal to hunt wild animals within 100 yards of the Red Cliff Recycling site.

**38.5** Section 5. ADMINISTRATION. Recyclables shall be disposed of through roadside pick-up or dropped off on designated drop off days. Recyclable materials shall be placed at the end of the resident's driveway for roadside pick-up.

**38.6** Section 6. ENFORCEMENT. For the purpose of ascertaining compliance with the provisions of this ordinance, the following persons are authorized to enforce this chapter: 1. Conservation Wardens, 2. Recycling Coordinator, 3. Red Cliff Police Officers, 4. Environmental Compliance Officer. They may inspect materials separated for recycling,

post consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities, which shall be kept confidential when necessary to protect proprietary information. No person may refuse access to any authorized officer, employee or authorized representative of the Red Cliff Band who requests access for purposes of inspection. No person may obstruct, hamper, or interfere with such an inspection. Any person who violates a provision of this ordinance may be issued a citation under section 7. The issuance of a citation shall not preclude proceeding under any other applicable ordinance or law.

**38.7**        **Section 7. PENALTIES.**        Penalties for violating this ordinance may be assessed as follows:

**38.7.1**        First Offense - Warning. Any person, industry or business enterprise who violates any provision of this ordinance shall receive a written warning as a first offense. Such warning shall direct the party in violation to properly dispose of the refuse or correct the condition identified in the citation within 5 days. Non-compliance with a first warning ticket shall result in a complaint being filed in Tribal Court for prosecution. This 5-day mitigation period shall not apply in the event of imminent health or safety hazard.

**38.7.2**        Second Offense - Prosecution. Any person, industry, or business enterprise violating any of these Ordinance provisions, upon conviction, shall be fined not less than (\$50.00) fifty dollars and not more than (\$5000.00) five thousand dollars, and shall immediately remove illegally deposited material to a designated/approved disposal site. A schedule of penalties shall be posted in the Tribal Clerk of Court's office. Costs

of clean-up, prosecution, and court fees shall be assessed upon conviction in the Red Cliff Tribal Court. Each day of a continuing violation shall be deemed a separate offense for purposes of this section.

**38.8 Section 8. NON-LIABILITY AND NO WAIVER OF SOVEREIGN IMMUNITY.** Upon adoption of this Chapter, there is no liability on the part of the Tribe, its agencies, or employees for damages that may occur as a result of reliance upon or conformance with this Chapter. The Tribe does not waive sovereign immunity from suit in any respect by adoption of this code.