

TRIBAL WASTE JOURNAL

DEVELOPING AND IMPLEMENTING CODES AND
ORDINANCES ON TRIBAL LANDS

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WASTE CODES



Most communities create waste. For tribes, a waste code is a law to help reduce the amount of unregulated waste within a tribe's jurisdiction. Tribes create waste codes to protect the natural world and the people, plants, and animals who inhabit it.

Every tribal community has a different process for writing and passing tribal law, but the processes share similar steps. While tribal waste codes vary in their purpose, implementation, and impacts, successful tribal codes often share one trait: they are created by and for the communities they serve. Many tribal codes attempt to resolve an issue identified in a tribe's Integrated Waste Management Plan (IWMP). The IWMP outlines a tribe's plans to reduce, manage, and dispose of its waste by detailing existing systems, as well as highlighting needs for more effective and sustainable waste management in the future.

While many tribes face similar waste management issues, no two tribes are likely to implement the same solution. The design, implementation, and enforcement of a code can be woven into a tribe's unique culture. Therefore, careful consideration of the context and community is often part of fostering a successful code.

Why Are Waste Codes Important for Tribes?

Without a waste code, it may be difficult for a tribe to change the community's behavior to address the root causes of the waste issues at hand. Waste codes dictate what people can and cannot do, as well as what will happen as consequences of their actions. Codes are an important tool to help manage waste issues.

However, the true power of codes is not the enforcement mechanism – it's the community buy-in. Community buy-in is what allows for behavioral changes. Unless the community sees the need for the code and agrees with the enforcement measures, the behavior that causes the waste management issue in the first place is unlikely to change.

In a way, waste codes serve as a reminder of a tribe's roots to protect and care for Mother Earth and can be based on traditions that matter to the tribe. Codes can ultimately help a tribe address its unique issues and honor and preserve its traditions for future generations.

“Ultimately, a law is only good if it serves a necessary purpose and works for the community that it governs.”

– Annie Perry, Legislative Attorney at Snowpony Consulting, PLLC

“The only way that any Indigenous people can be in a place for thousands and thousands of years is to be a part of natural cycles and not destroy them. Waste codes reinforce this truth for our people.”

– Gavin Hudson, Metlakatla Indian Community

DEVELOPING A PROCESS FOR WRITING WASTE CODES



A step-by-step guide for tribal environmental professionals who want to develop a waste code for their tribe.

While each tribe's process might look different due to community needs, waste systems, and tribal governmental structure, there are some universal steps for developing an effective process for drafting, implementing, and enforcing waste codes.

Step 1: Identifying Issues and Expectations

When first thinking about developing waste codes, you may want to consider the following questions:

- What are the main issues the code should address?
- Will the code address broad waste issues or focus on a specific reoccurring problem within the community?
- What are the expected outcomes from implementing and enforcing a waste code?
- Who are the key stakeholders within the community that could be a potential champion for the code?
- What benefits will the tribe receive from the code?
- What are the feasible enforcement mechanisms?
- What are viable consequences for noncompliance?

NOTE: the word “code” means “law.” Other words for “law” include “ordinance” and “act.” They are interchangeable, and every tribe chooses what word to use when referring to tribal law.

Step 2: Choosing a Focus Area

Whether you are developing a new waste code or updating an old one, it is often helpful to focus on a single issue at a time. This focus area could be a waste issue that is important to the community or one that is a prominent problem for the tribe. For example, Gavin Hudson, a member of the Metlakatla Indian Community in Alaska and author of the tribe's code banning plastic bags, found that plastic bags were a prevalent source of litter and a noticeable eyesore for the community. Therefore, he decided to develop a waste code that specifically implemented a plastic bag ban. Once the tribe has the capacity to develop more waste codes, they can build off the existing, issue-specific code.

Step 3: Conducting Research

Research can help tribes to identify example codes and to understand legislative and administrative processes for code development. Existing waste codes from other tribes may be useful. The National Indian Law Library, through the Native American Rights Fund (<https://narf.org/nill/index.html>), houses existing tribal codes that could serve as models when drafting new codes. Codes from other tribes can be modified to fit the needs of a tribe’s legislative and administrative processes.

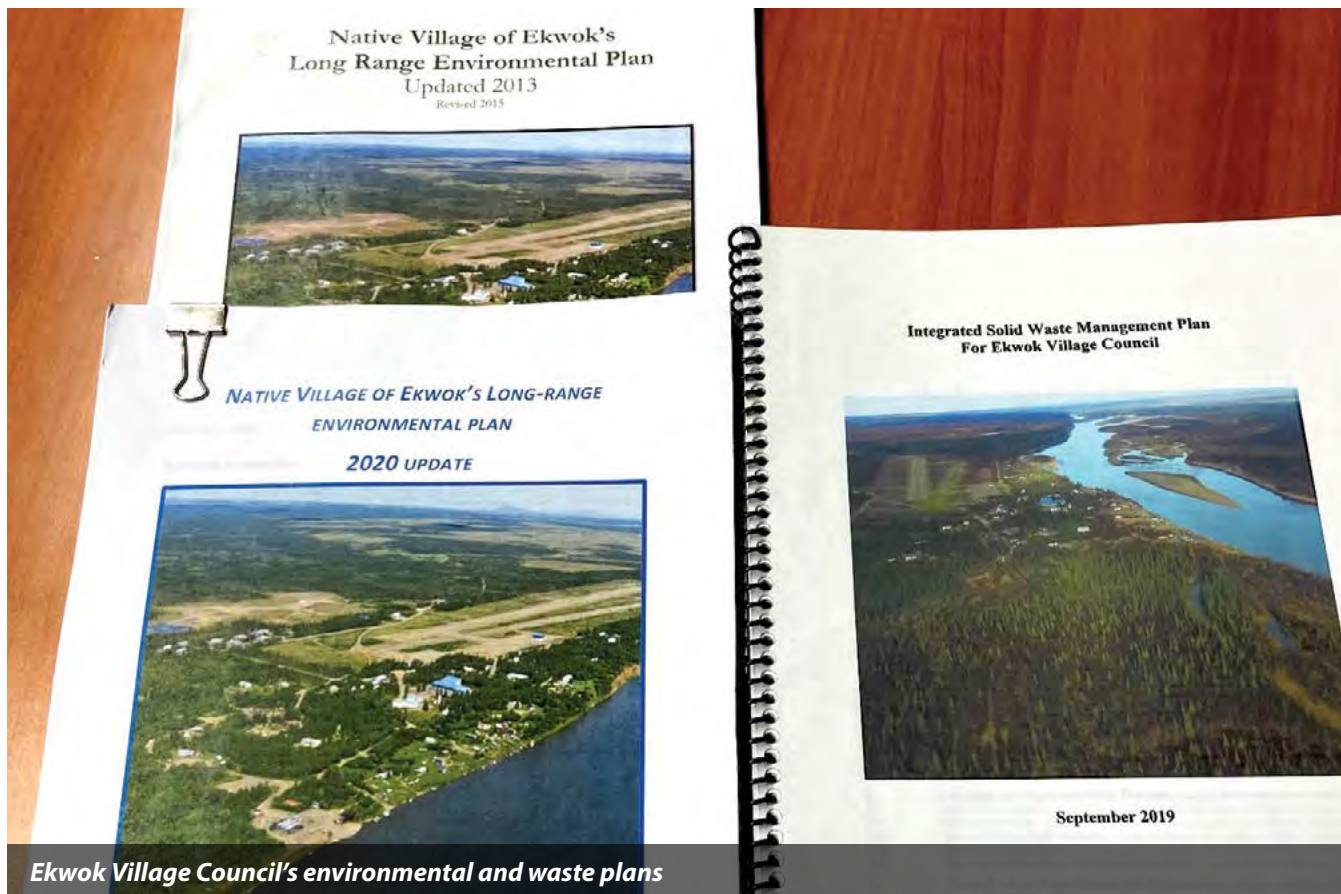
Step 4: Writing the Code

Codes will often look different based on the diverse range of issues they are meant to address. Some codes have multiple authors, while other codes will have one author. When there are multiple authors, it is important to ensure that the language is consistent and concise. While the writing process may vary from tribe to tribe and additional sections may be necessary depending on the code, many waste codes include these elements:

- **General Provisions** – Requirements of the code. This section might provide background information that the audience may need to know about the code, including title, authority, and/or other codes that might relate to this one.

- **Prohibited Acts** – What is not allowed. This section might provide information on why a tribe created their code, as well as what actions the code attempts to deter.
- **Substantive Provisions** – What is allowed. This section might provide information on what actions related to the prohibited acts are still allowed.
- **Enforcement** – The consequences for noncompliance. This section might include information on enforcement mechanisms, as well as what happens when a code is violated.
- **Rulemaking and Judicial Review** – How the issue will be addressed in the future. This section might include information on what will happen in the years to come if the code loses relevance or needs to be updated.

Each code requires its own unique drafting and editing process to be successful. EPA and Indian Health Services (IHS) jointly fund training classes to assist tribes with writing codes and ordinances. The trainings are offered through the Institute for Tribal Environmental Professionals (ITEP).



Ekwok Village Council's environmental and waste plans

Tips for Writing a Waste Code

The following are suggested best practices for all code writers:

- **Review your tribe's existing code.** Not all tribes have existing codes, but if your tribe does, they may serve as a valuable resource. Familiarizing yourself with any existing codes and ordinances helps to ensure that new codes match the language of existing codes (as much as possible). Reviewing existing codes can also prevent a new code from contradicting information or actions in existing codes. Tribes with no existing codes might use other tribes' codes as inspiration for the type of language to use or as a template for content to include in the code.
- **Find a champion.** For example, some tribes might select a tribal council member or key stakeholder. This person could provide support throughout the entire development process, help get buy-in from community members, or push for the code's success in tribal council.
- **Pick the right writer.** It is often helpful for the person drafting the code to have a good understanding of how the tribe's legislative process works. Drafting a code with the legislative process in mind may prevent misdirection or hindrances.
- **Keep it as simple and concise as possible.** Shorter, clearer codes are often the easiest to understand – and in many cases, the more people understand a code, the more likely they are to comply.
- **Use plain language.** Many waste codes can be written without using complex legal language. It is often beneficial to have a waste code that community members and tribal council can read and comprehend easily without needing to consult a dictionary.
- **Include clear definitions.** Codes should define the terms that are most relevant to their contents. For example, a construction and demolition waste code might explain what construction or demolition waste is and list items that constitute construction debris.
- **Write a brief preamble.** This might emphasize the cultural importance of the code, including how it could promote the values of the tribe. For example, many codes emphasize protecting the natural environment.
- **Attorney review.** If possible, consider having an attorney review the draft code.
- **Revise, revise, revise.** The first draft of the code does not have to be perfect. Taking time to edit it ensures that you have the most well-written code possible.



Powwow at the Santee Sioux Nation.

COMMUNITY ENGAGEMENT AND IMPLEMENTATION



When developing and implementing waste codes, many tribal environmental professionals achieve success by working with and engaging the community in all steps of the process.

Community Engagement and Involvement

For a waste code that fits the needs of all community members, you can foster participation by hosting meetings, listening and brainstorming sessions, and other collaborative education activities that the community can participate in. This often involves identifying the key stakeholders within the tribe, which may include elders, tribal council, local businesses, and schools. Consider approaching these groups with ideas for the code's goals and explain what the benefits of the code will be. Many codes benefit from having a champion, either in the community or on the tribal council, who supports the code and can help guide it through the legislative process.

Once you develop and draft the code, you may want to conduct community engagement activities to obtain input and secure community buy-in for the code. The message can be simple: the code is meant to do good things for the community, such as protecting human health and the environment. Community engagement, education, and outreach can occur in the form of brochures, flyers, social media, and presentations during community gatherings. Presentations give tribal environmental professionals the platform to share why

they believe that the code is important and why the community should support its development. You can also emphasize shared community values and what the code will ultimately protect. If you give a presentation, consider explaining the purpose of the code, the steps people need to take to comply with it, and what happens if someone violates the code (i.e., the enforcement mechanisms). You may also want to include visual examples in your presentation to exemplify the problems that the code addresses. For instance, if illegal dumping is a frequent issue, you could show pictures of illegal dump sites to illustrate how those sites detract from the beauty of your tribal land.



Community engagement displays from the Santee Sioux Nation.



Sharing the Approved Codes with the Community

To ease the implementation process, many tribal environmental professionals create a code rollout plan. This plan might lay out the short-term goals for community engagement and implementation, as well as defining methods for information dissemination. Thinking about these things ahead of time helps create a more seamless transition once the code is passed and could shorten the time from adoption to implementation.

When the code is ready to be shared with the public, consider posting physical copies of it throughout the community, such as at senior centers, schools, or grocery stores. To make reading the code easier, you might also draft a one-page executive summary. This summary can provide an opportunity for people to learn about the code without having to read numerous pages of technical information that may not even apply to them. In addition, creating fact sheets, brochures, or other succinct outreach materials allows you to share information about your code with the community. Several of the tribes highlighted in this issue found that posting the code on their Facebook pages also assisted with providing community engagement and education. Ultimately, making a law easy to access can go a long way toward making that law effective. If your tribe does not already post its current laws online, consider working to get the new waste code posted to the tribe's website.

“Passing code is not something that’s going to be done overnight. It takes patience and persistence. Don’t stop because there’s a wall – climb over it.”

– Page Hingst, Santee Sioux Nation

Implementation and Enforcement

Since different tribes have varying legislative and administrative processes, implementation may take many forms. In many cases, coordinating across tribal governmental departments during the development and drafting stages also benefits the implementation phase once the code is adopted. If other administrative departments are involved in the implementation and enforcement of the code, consider bringing them on board early in the process. For example, Tammy Belone, Program Manager for the Pueblo of Jemez's Natural Resource Department, worked closely with the



director of the Public Works Department when she was developing a waste code for the Pueblo, because the code would affect that department's work.

Enforcement

Enforcement is a significant component of developing effective law. Like the other steps of code development and implementation, enforcement often looks different for each tribe. Some tribes might rely solely on tribal police, while other tribes either do not have a police force to rely on or choose not to use tribal police to enforce their waste laws. Tribes can structure legal enforcement of their waste codes in many ways:

- Using a tribal environmental professional (or a person in a similar position) who accepts complaints and has the power under tribal law to investigate those complaints.
- Using tribal courts when an alleged offender refuses to comply.
- Withholding tribal benefits.
- Denying access to tribal services.
- Posting public notices (with pictures).

Putting tribal environmental professionals in the driver's seat for enforcement can be an effective way to get results from a waste code. Even if they are not the ones writing tickets, they are often the ones in charge of education, outreach, and engaging with the community, which can be the first steps of enforcement. Tribal environmental professionals can

also add some flexibility to enforcement by speaking with an alleged offender about how they are violating the waste code and deciding whether to issue a citation based on an assessment of the facts. It's important for tribes to include language in their code that gives tribal environmental professionals the power to write and issue tickets themselves, since these professionals are often in the field monitoring waste issues.

Education

Many tribes choose to include an educational tier in the enforcement provision of their waste code. If a tribe determines that tribal police and tribal court are not a culturally appropriate way to handle waste issues, education and negotiation are usually very effective alternative mechanisms of enforcement. For example, the Yurok Tribe has successfully utilized education and positive communication to enforce their automobile abandonment waste code, preventing the need for more severe enforcement actions. The Yurok Tribe has found that education creates a positive relationship with community members and past offenders because they are able to talk openly with those who illegally abandoned automobiles in the past, helping them change their behaviors to comply with the tribe's waste code. Tribes should consider building an educational tier of enforcement into the waste code that is enacted before any civil or legal action is taken, such as teaching

offenders about the negative effects of their actions or giving them a certain amount of time to remedy the violation before they are charged with noncompliance.

Fines and Fees

Other common enforcement mechanisms include fines and fees, which many tribes incorporate into their waste codes. The threat of a fine is often deterrent enough to stop someone from violating the code, which negates the need to involve tribal police. Tribal administrative departments can be responsible for citing noncompliance, as well as issuing and collecting fines.

Tribal Police

Tribal police can assist in enforcing a code if a tribe feels comfortable using them as an enforcement mechanism. Tribal police can issue tickets for noncompliance and compel violators to appear in tribal court. They might function as a backup enforcement mechanism if education or monetary penalties do not work. However, tribes are not required to include tribal police as an enforcement mechanism in their waste code, even if they do have a police force. If your tribe does use tribal police in enforcement of the code, consider making sure that the process is discussed with tribal police and that their role is clearly defined and agreed upon before your draft becomes tribal law.



Santee Sioux Nation Office of Environmental Protection staff dressed as the League of Environmentally Awesome People to teach the community about pollution.

THE PUEBLO OF JEMEZ'S SUCCESSFUL CODE DEVELOPMENT PROCESS

The Pueblo of Jemez, located in New Mexico, is a small, tight-knit community of about 2,500 people. Within the Pueblo of Jemez, tribal members pay a fee to access the tribe's solid waste transfer station. Prior to the waste code's implementation, illegal dump sites were scattered throughout the Pueblo of Jemez, polluting the environment and tribal land. Tammy Belone, the Program Manager of the tribe's Natural Resources Department, wondered why some people were not utilizing the transfer station services and were dumping their waste illegally even though they were already



Successful Code Development

Never having written a code before, Belone and the director of the tribe's Public Works Department participated in the Codes and Ordinances training course offered by ITEP. This course was integral to their process for code development and not only helped

them determine where and how to get started, but also helped them condense a 10-page code into five concise pages. The course was also beneficial because while the Pueblo of Jemez does have a tribal attorney, they do not always have the funds to pay the attorney for their time. Participating in the course gave the tribe access to one-on-one assistance from an attorney who specialized in tribal solid waste law.

Working With Tribal Council

The development of the Pueblo of Jemez's illegal dumping waste code was relatively unique in that very few roadblocks emerged. It took just four months to get the codes finalized and on the tribal council's agenda. The code was presented to council, approved, and adopted in one day. The issues that the code addressed weren't new to tribal council members. They understood the need for the code since they served as governors of the Pueblo of Jemez Tribe and dealt with the problems firsthand. Tribal council was ready to see the issue addressed, which contributed to the swift legislative process for the code.

Community Outreach

Community members were in full support of the code and wanted to see a clean, healthy environment for themselves and future generations. The tribe provided outreach to reinforce the message about illegal dumping within the community once the



Illegal dump site on Pueblo of Jemez land.

code was approved and adopted. The code is posted on the Pueblo of Jemez's website and is included in the tribal newsletter annually. The tribe's messaging centers on keeping the environment clean and includes images from illegal dump sites to show their negative environmental impacts. Sharing these images with the community helps to raise awareness about the prevalence of illegal dump sites in the community prior to passage of the law.

Means of Enforcement

The code specifies that all tribal members must use the transfer station to dispose of their solid waste. When dumping does occur, the Natural Resources Department can use mail they find within an illegal dump site to identify the person responsible, whom tribal court can then prosecute. For Pueblo of Jemez, tribal police act as the only form of enforcement for illegal dumping and are involved when an illegal dump site is discovered. Immediately involving law enforcement helps people understand the gravity of the offense and encourages them to comply with the code.

However, Pueblo of Jemez has not had to involve tribal police in any cases of illegal dumping since the code's adoption, and the number of illegal dump sites has decreased significantly since the tribe adopted the code. This is due in part to the tribe's efforts to educate the public about the transfer station's accessibility – open seven days per week – which provides a legal means of solid waste disposal.

Lessons Learned

Even though the short timeline of the Pueblo of Jemez's waste code process is unusual, their experience demonstrates practices that could be incorporated in future code development.

- Get other departments involved throughout the development process. They need to understand the need for the code.

- If the Public Works Department handles trash disposal for the tribe, work closely with their director.
- Have meetings with law enforcement to get them on board with the new code regulations, even if they do not initially see illegal dumping as part of their scope. Remind them that as police officers, this is one way they can protect public safety.
- Understand your tribe's legislative process. It is important to become accustomed with the ins and outs of working with local government.
- If needed, hold mock tribal council meetings so that you will know what to expect when the code is officially presented to council.
- Have someone on board to push the code through the legislative process. If someone on the council already supports the code, it is often easier to get the code on the council's agenda, and hopefully that representative will encourage others to support the code as well.



Illegal tire dump site on Pueblo of Jemez land.

THE EKWOK VILLAGE COUNCIL'S WASTE AND CONSTRUCTION DEBRIS CODE

Ekwok Village is located along the Nushagak River in Alaska. Ekwok means “end of the bluff.” The village does not have any roads connecting it to neighboring communities, which means the only ways in and out are by airplane, boat, four-wheeler, or snowmobile. Ekwok Village’s remote location makes hauling waste out of the community a challenging, and often costly, process.

Before the Ekwok Village Council implemented and drafted waste codes, the community had an uncontrolled and unmaintained landfill where community members, businesses, and construction companies disposed of their waste. The landfill was reaching capacity and threatening to pollute the land and water the community relies on. The council decided it needed to address the public health and safety hazards the landfill presented to the community, so it made developing waste codes a part of its long-range environmental plan.

Problem and Solution

To begin the waste code development process, the council, as well as environmental staff and the environmental committee, held pre-planning and community meetings to discuss the issues they hoped to address in the codes. The tribe first focused on developing and implementing a waste code to collect and dispose of the community’s waste that would otherwise go to the landfill; then, they started working on a code that targeted the waste created by construction projects within the community. Ekwok Village Council’s Environmental Coordinator, Lorraine King, and staff led the effort. While there were many

issues that needed to be addressed in the code, it became overwhelming, and they realized it was easier to focus on the problems they wanted to solve by writing simple codes for each issue. The tribe knew that they needed a way to keep construction debris out of the landfill. Therefore, they developed a code specifically to help solve that problem.

Along with taking the Codes and Ordinances training course, the members of the tribe involved in the development process began researching similar existing codes. Initially, this research included pulling documents from other tribes or areas that experience similar problems to craft a code that fit Ekwok’s needs. As a small community, having models to use for reference was helpful and easier than starting from scratch.

The construction debris code that the Ekwok Village developed encourages construction companies to remove any debris from their project sites and from the community once the project is complete. Construction



Lorraine King collects water samples to help monitor pollution from the landfill.



Uncontrolled and unmaintained landfill at Ekwok Village.

companies are encouraged to backhaul waste they generate. An agreement is attached to the code and provided to the company for signature. Before any waste can be landfilled, the company must sign the agreement.

Enforcement

The department staff and tribal police officers are authorized to enforce the ordinance. A written agreement, signed by the company and the Ekwok Village Council, acknowledges compliance, and the agreement form then acts as a method of enforcement. If companies fail to comply, a written warning is given. If the company does not comply within 30 days, the tribal council can impose fines or put a hold on the deposit fee, impose community service, or stop work.

Best Practices

Ekwok Village's waste and construction waste codes have been successful. However, the process was a learning curve for the tribe. They recommend the following best practices to tribes looking to write and implement waste codes:

- **Do research.** This is an important first step before starting to draft code. Tribes can use existing codes from other tribes as a starting point and modify them as needed.

- **Utilize existing resources for assistance.** The National Tribal Waste Management Peer Matching Program is a great resource that Ekwok Village used to get one-on-one assistance from attorneys and other tribes who can review and provide edits to a draft code.
- **Have community meetings.** Community buy-in is often essential to successfully implement any code, so it is a good idea to start meeting with the community during the drafting process. Ekwok Village's environmental staff gave community presentations where they showed images of the trash and debris in the uncontrolled dump, illustrating how the landfill was becoming a hazard to the environment and community. Once people understood how the code would positively enforce the values of the village, community members were supportive. The tribe found that the community was willing to comply to benefit the community and help future generations live off the land.
- **Involve other relevant tribal staff.** Ekwok Village had an environmental committee that helped with community engagement. They also involved an environmental technician and solid waste manager in the brainstorming process when developing the codes. Having additional people assist increased their reach within the community and helped to get buy-in.



Ekwok Village developed and implemented waste codes to help build and manage a new landfill.

PLASTIC BAG BAN OF METLAKATLA INDIAN COMMUNITY



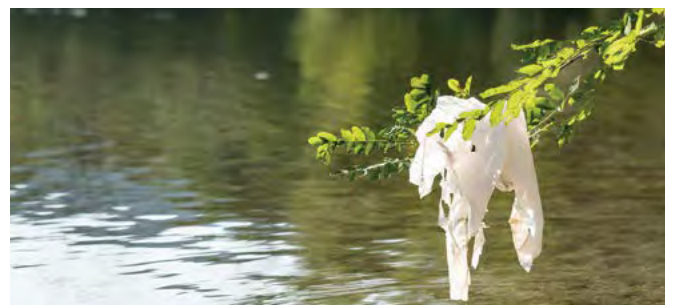
When Gavin Hudson returned to the Metlakatla Indian Community after pursuing a career in culinary arts in Seattle, Washington, he did not plan to become involved with solid waste management. However, he saw a need: at the time, no one in the Metlakatla Indian Community was managing waste in a holistic, integrated way. Litter was scattered throughout tribal land and, without dedicated personnel, funding, and the capacity to change behavior, the problem was getting worse. During his time in the food service industry, he had learned a lot about management and realized that those skills could be applied to helping his tribe and working for the community. With Gavin at the helm, the tribe recognized that something had to be done to combat waste issues in Metlakatla and started working on codes to address it.

Deciding that not all waste issues could be resolved with one code, the tribe chose to pursue a single tangible issue within the community: plastic pollution. Plastic bags were prolific in the environment and seemed to be rolling around Metlakatla like tumbleweeds. Because Metlakatla is an island community, these plastic bags would eventually end up polluting waterways and harming marine life. The number one industry in Metlakatla is fishing, so the tribe is dependent on clean waterways. Therefore, the tribe decided that a code to ban plastic bags made the most sense.

“It was impossible for me to continue to justify this behavior if we could stop it. If we did not do something, our great-great-grandchildren would see these same plastic bags. The essence of sovereignty is being able to write our own laws and allow destiny to unfold in a way that makes sense for our communities. For the rest of my life, I will know that I contributed to how my people are governed.”

– Gavin Hudson, Metlakatla Indian Community

Waste management is often forgotten, even though proper management is critical to human health and the environment. If the tribe could pass a code to reduce plastic pollution, they thought a snowball effect would ensue, and the awareness around waste issues would



continue to grow. The tribe reasoned that if they passed a plastic bag ban, this would lead to behavioral changes in other areas of waste over time.

The tribe's first step was to start investigating what other communities had done to limit the use of single-use plastic bags. While some locales had placed a consumer-facing tax on plastic bags at the point of sale, others had completely banned plastic bags as contraband. One community they studied had enacted a fine for vendors that continued to use single-use plastic bags. This last approach seemed realistic for Metlakatla: at the time, there was not any other kind of existing consumer-facing tax in the community, and by enacting a fine for vendors, they would not have to add to the bureaucracy of the tribe. In other words, they could manage the code in their existing capacity.

Once the tribe had figured out the best method of reducing the use of single-use plastic bags in Metlakatla, they set off to get the community on board. They found that the vendors were easy to convince; however, the community was not as receptive. Prior to the plastic bag ban, one proactive vendor in the community had tried selling – and then even giving away – reusable bags to customers. Very few of his customers had any interest in the reusable bags.

Gavin conducted a presentation about the proposed plastic bag ban at their senior center, where the elders meet for lunch every day. The tribe knew that it would be an uphill battle to get the community behind the plastic bag ban and that many wouldn't initially be receptive to the change. However, they were persistent and returned to the community center the next week, after the elders had a chance to mull over the proposed ban. When they went back, they started to see support. After thoughtful consideration of the proposed ban, community members started to speak up in favor of it.

Once the elders were on board, Gavin started to visit local schools to talk to students about the importance of reducing single-use plastic bags. He used striking images of Metlakatla beaches littered with plastic bags and asked the students if they would be proud to live there. After the school presentations, students fully supported the plastic bag ban.

Metlakatla continued outreach through its social media channels. One successful approach was to post news articles of plastic bag bans in other communities on their Facebook page. By showing that it was doable elsewhere, the tribe made the ban seem more plausible to the community. The posts also emphasized that by supporting a plastic bag ban in Metlakatla, community

members could take pride in the environment and protect it for future generations.

The tribe conducted this community engagement in the lead-up to tribal council considering the plastic bag ban. By getting the community behind the plastic bag ban first, the tribal council looked favorably on the proposed legislation and passed it overwhelmingly.

Once council passed the code, vendors started embracing the new law even before it became effective. After the local grocery stores used their remaining single-use plastic bags, they did not restock their supply, instead switching to paper and reusable bags. To make sure community members were prepared for the switch, Gavin took 50 of his own reusable bags to the community center to donate to anyone who did not have their own bags.

Banning single-use plastic bags is a challenge many governments have grappled with and struggled to achieve. Metlakatla's ability to get community buy-in and tribal council approval is a testament to both the power of local government and the tribe's dedication to crafting a code fitting for the people of Metlakatla.

Plastic Bag Ban During COVID-19

The pandemic changed consumption patterns related to single-use plastics, and Metlakatla was no exception.

At the beginning of the pandemic, when it was thought that COVID-19 could be contracted through touching surfaces, the use of single-use plastic bags came back as a sanitary measure in Metlakatla. The tribe waived the plastic bag ban during the pandemic.

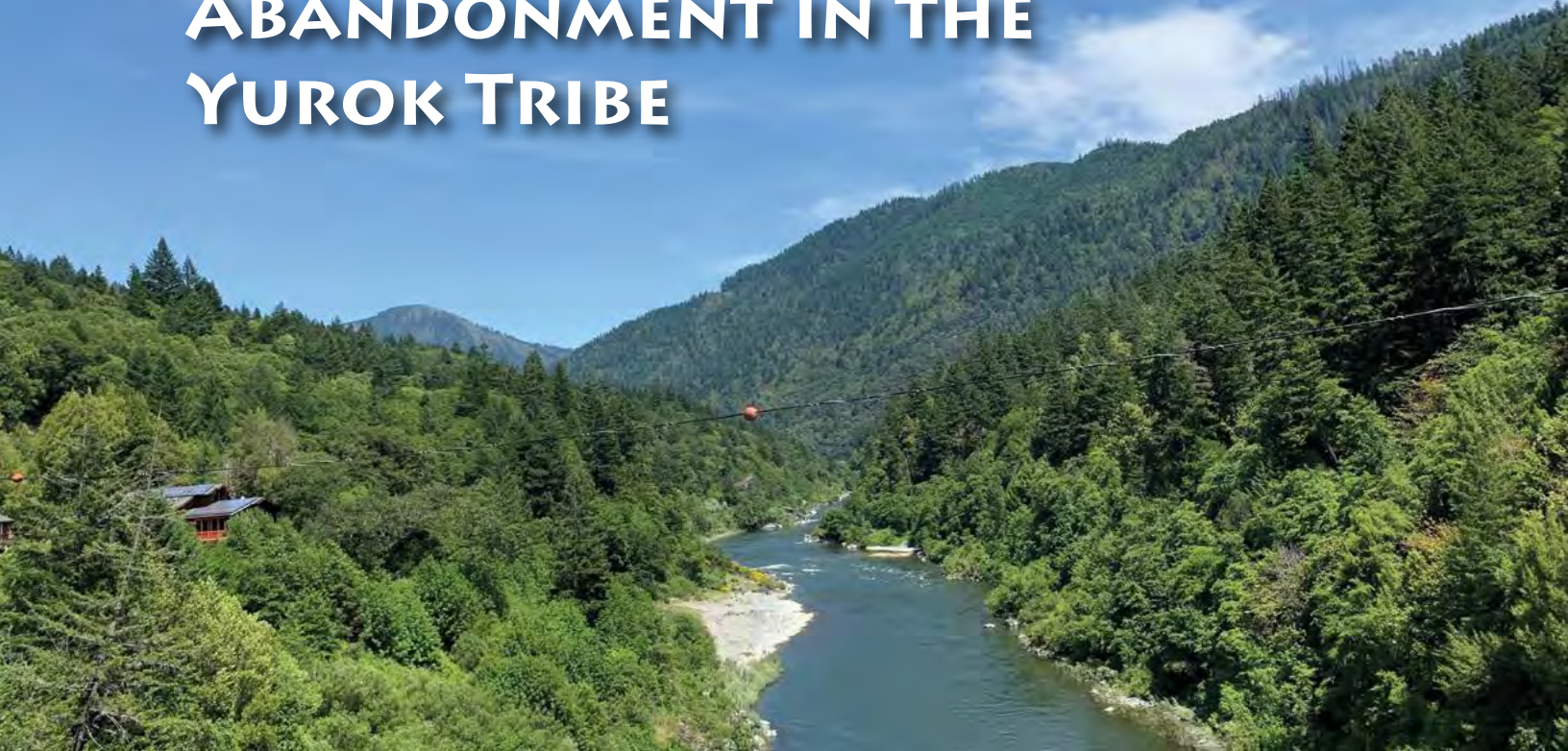
As of 2021, Metlakatla has not reinstated the ban. However, even though plastic bags are used in stores again, they are not as prolific in the environment as they were prior to the ban's enactment. The ban –

and the community engagement around it – resulted in a cultural change to the tribe's attitude toward plastic bags. Community members continue to use reusable bags and have even started reusing plastic bags.

Ultimately, despite waiving the plastic bag ban for the time being, the tribe is achieving the outcome they wanted: a cleaner community. They attribute their success in making change in their community to developing codes to combat waste issues.



PRESERVING TRIBAL TRADITIONS: ADDRESSING AUTOMOBILE ABANDONMENT IN THE YUOK TRIBE



The problem was obvious: abandoned vehicles littered the Yurok Tribe's land along the Klamath River in California. Due to the remoteness of the Yurok Reservation, non-Indians often illegally abandon inoperable vehicles on tribal lands. Something needed to be done to resolve the issue, and Kori Ellien, the Environmental Enforcement, Response, and Education Division Manager at the Yurok Tribe Environmental Department, wondered why the Yurok Tribe's automobile abandonment code that had been in place since 2004 had not helped to establish procedures and penalties for the abandonment of vehicles on the reservation.

The Yurok Tribe Environmental Department had conducted open-dump surveys across tribal land, but the abandoned vehicles littering the landscape seemed to pose more of an urgent problem than the open dumps. The Yurok Tribe soon realized that the current automobile abandonment code was not working, and something had to change. They started working with the Office of the Yurok Tribal Attorney to amend the existing code; the original code was precise, so they were able to develop a solution to address the problem without changing the code itself. They created an Abandoned Vehicle Surrender Form, which gives

all community members, tribal and non-tribal, the opportunity to self-report abandoned vehicles on their property and have them collected and properly disposed of for free.

The form allows the Environmental Department to start out on a friendly foot with the community. Instead of going straight to enforcement, the department was able to first approach individuals to let them know they could have their vehicles removed for free if they filled out the form.

The Environmental Department decided to go this route in lieu of fines because they did not think that fines would have been the most fair or effective method for removing abandoned vehicles. The Yurok Tribe's constitution states that they will try to settle things in a culturally appropriate way, rather than take a punitive approach. In addition, some community members might not be able to pay for the removal of a vehicle.

To help pay for vehicle removal and to eliminate the need for a fine, the tribe worked with local metal recyclers, to whom they offered the vehicles for free. This was a win-win for the tribe, as they were able to eliminate some of the costs that are usually associated with disposal and recycling of materials.



Abandoned vehicles prior to a cleanup at the Yurok Indian Reservation in California.

Since the tribe implemented this solution, the number of abandoned vehicles on Yurok land has decreased noticeably. They were able to dispose of 40 vehicles in 2021 alone. The removal of abandoned vehicles has been so effective that the tribe has received numerous requests from other communities wanting to set up similar programs.

Ultimately, the Abandoned Vehicle Surrender Form has created an approachable means for the community

to self-report their abandoned vehicles. The tribe has found that community members are now comfortable requesting help with vehicle disposal.

This model could work not just for other tribes, but for other communities, too; the key is for each community to consider what matters to them the most. For the Yurok Tribe, focusing on environmental protection and restoration helped get community buy-in on the vehicle abandonment form because it connected tribal members to the cause.

Regular social media presence to keep the community updated on environmental news has also been a key to success for the Yurok Tribe. The Yurok Tribe Environmental Program (YTEP) Facebook page is updated regularly, informing followers on scheduled cleanups of the Klamath River, new resources for air quality, and updates to environmental codes. The Facebook page helps community members feel like they have been heard and allows for a dialogue to take place. When the tribe first developed the Abandoned Vehicle Surrender Form, Facebook was an important outreach tool to spread the word to those living on Yurok land.

Although they plan to modify the code in the future, the Yurok Tribe's story is a prime example of identifying why a code is not working and finding ways to work within the existing structure. The initiative of creating an addendum and a form enabled the tribe to act on the environmental problem in a quick and efficient manner.



After an abandoned vehicle cleanup at the Yurok Indian Reservation in California.

SOLID WASTE ACT OF THE Santee Sioux Nation

During an inventory of brownfield sites on the Santee Sioux Nation Reservation in Nebraska, Page Hingst – Manager of the Santee Sioux Nation’s Office of Environmental Protection’s Tribal Response Program – found 33 illegal dump sites, three of which were actively used. These dump sites ranged from the size of trash bags to the size of landfills. While the objective of this inventory was not to discover illegal dump sites, it brought to light the issue of illegal dumping on tribal land. Instead of immediately fining individuals for their behavior, the tribe’s Office of Environmental Protection decided to investigate what was causing people to illegally dump their waste and how to stop it.

While there were waste codes in place at Santee Sioux Nation, the codes were not being enforced and were very vague. Therefore, the tribe’s Office of Environmental Protection started writing the Solid Waste Act code to specifically address illegal dumping. With the help of the Codes and Ordinances training course, they were able to condense the draft code from 23 pages to nine pages. The Solid Waste Act code was proposed to tribal council in October 2018, and it was approved with minor edits.

Researching Illegal Dumping

To determine the reason why people were illegally dumping their waste, the tribe’s Office of Environmental Protection conducted research and spoke with tribal members. They concluded that there were four main reasons why illegal dumping was happening on the Santee Sioux Nation:



1. The transfer station was closed on the weekends and in the evenings, and its open hours were inconvenient for many people.
2. The transfer station charged a fee for disposal of large, bulky waste.
3. There was a behavioral component: illegal dumping was something people always did.
4. There was a lack of consequences for dumping on tribal land.

After they discovered the root causes of the illegal dumping, they laid out an action plan to tackle each of those causes. The first step involved working with the Utilities Department to start a pickup program for large, bulky waste. Using EPA’s General Assistance Program funding, these pickups were free of charge to residents to help encourage participation, and residents could schedule pickups for when they needed them. By implementing this program, they were able to resolve the first two root causes of illegal dumping and

significantly decrease the amount of bulky waste being dumped illegally on tribal land.

Educating the Community on Waste Matters

The other two causes were more difficult to address, but the tribe’s Office of Environmental Protection came up with a creative campaign to educate the community about waste, pollution, and littering: they collected interesting items found at dump sites and took them to presentations and events to demonstrate how long waste can exist in the environment. For example, presenters would show community members a glass bottle and ask them how old they thought the glass bottle was. When most people guessed that it was from the 1980s or 1990s, they were shocked to find out that the bottle had been discarded more than one hundred years ago, in 1913.



Glass bottle from 1913 used to educate the community about waste.

In addition to the presentations, they created informational flyers and posters explaining the waste decomposition process. These educational materials taught community members about their impact on the natural world through illegal dumping and how far into the future that impact would last. The tribe’s Office of Environmental Protection staff provided public outreach at the tribe’s health fair, dressing up as the League of Environmentally Awesome People, superheroes that had a role in keeping the environment clean.

To reach the younger audience, the staff visited elementary schools. To grab the students’ attention, they dressed up in HAZMAT suits and Personal Protective Equipment, and then they would talk about pollution and why it is harmful.

Aside from word-of-mouth outreach, the tribe’s Office of Environmental Protection also uses Facebook as a tool to engage and educate the community. For example, if someone illegally dumps on Santee Sioux land, they post a picture of the dump site on their Facebook page. This gets users’ attention and serves as a reminder about the bulky item pickup: all people need to do is call the Utilities Department to schedule a pickup. Reception to the Facebook posts has been positive, with community members often commenting and encouraging their friends, family, and neighbors

to make use of the pickup options and keep their reservation clean. It helps bolster and drive home the fact that, with the addition of these resources, there is no reason to illegally dump.

Lessons Learned

In January 2021, staff began revising the Integrated Waste Management Plan, and in doing so, came to realize that while the Solid Waste Act code had been approved by council, it had never been adopted.

The Office of Environmental Protection plans to present the code at a future tribal council meeting to ensure that it is adopted. Regardless of the disconnect with the legislative process, though, the successful outreach made a positive difference in the community. On a reservation with more than 1,000 people, outreach has been very effective at making change. To help combat illegal dumping, the tribe does not want to have to be regulatory; they want to use fines only as a last resort. The real goal is to work with people in the community to change behavior. As a result, there are no active illegal dump sites on Santee Sioux Nation land – a huge success.



Illegal dump site at the Santee Sioux Nation.



After the Santee Sioux Nation cleaned up the illegal dump site (pictured), they posted a “No Dumping” sign to discourage future dumping.

RESOURCES

Online Resources

EPA's Developing Tribal Waste Management Codes and Ordinances

Includes resources and suggestions for tribal leaders preparing to develop codes and ordinances.

<https://www.epa.gov/tribal-lands/developing-tribal-waste-management-codes-and-ordinances>

EPA's National Tribal Waste Management Peer Matching Program

Voluntary program that aims to strengthen tribal capacity and develop sustainable waste management programs.

<https://www.epa.gov/tribal-lands/forms/national-tribal-waste-management-peer-matching-program>

The National Indian Law Library (NILL) through the Native American Rights Fund (NARF)

Provides a searchable catalogue of existing tribal codes (and is not limited to just waste codes).

<http://www.narf.org/nill/index.html>

Municode

Houses a limited number of existing tribal codes.

<https://www.municode.com>

The National Indian Justice Center

Lists legal and legislative resources for tribes, as well as some existing tribal codes.

<http://www.nijc.org/resources.html>

The Tribal Law and Policy Institute

Includes a list of available online tribal codes, as well as other tribal law resources.

<http://www.tribal-institute.org/lists/codes.htm>

The Native American Constitution and Law Digitization Project

Joint project between NARF and the University of Oklahoma Law Library to provide digital access to the constitutions, codes, and other legal documents of tribes in the United States.

<https://thorpe.law.ou.edu/>

Tribal Partnership Groups

Tribal partnership groups allow tribes to exchange information through regional and national working groups, tribal consortia, and focused committees. There are numerous partnership groups, including ones that focus on specific environmental topics or broader issues, such as communication or partnership strengthening.

<https://www.epa.gov/tribal/tribal-partnership-groups>

Training

Institute for Tribal Environmental Professionals (ITEP) Development and Implementation of Tribal Waste Codes and Ordinances Training

A two-part course designed to help tribal environmental professionals with no legal background understand the code development process and assist them in drafting their own waste codes.

Contact ITEP at itep@nau.edu, or email the Project Director, Todd Barnell, at Todd.Barnell@nau.edu.

http://www7.nau.edu/itep/main/training/training_waste

“If you told me 20 years ago that eventually I would be living back in Metlakatla and that I would be a nerd for solid waste management, I would have thought you were nuts. No one was doing this work, so I took it upon myself to learn. I really had the impression I was not qualified to write code, until ITEP’s course. It gave me the confidence to draft the plastic bag ban code. Being a tribal member and being able to contribute my own values, skills, and expertise to the code, to make that contribution, however small, was an honor.”

– Gavin Hudson, Metlakatla Indian Community

Funding

General Assistance Program (GAP)

The GAP grants provide funding to federally recognized tribes and tribal consortia for planning, developing and establishing environmental protection programs in Indian country, and for developing and implementing solid and hazardous waste programs on tribal lands.

<https://www.epa.gov/tribal/indian-environmental-general-assistance-program-gap>

Clean Water Act (CWA) §106 Water Pollution Prevention Program

Focuses on funding for surface and groundwater issues. Non-point source pollution may occur from illegal dump sites and/or construction debris. Funding can be used for hiring staff, education and outreach, and reducing pollution that may affect water.

<https://www.epa.gov/water-pollution-control-section-106-grants/tribal-grants-under-section-106-clean-water-act>

CWA §319 Nonpoint Source Program

Funding for surface water issues only. Nonpoint source pollution may occur from illegal dump sites and/or construction debris. Tribes can use grants to hire staff, monitor surface water, perform education and outreach, develop best management practices, complete nonpoint source assessments, and maintain a nonpoint source program plan.

<https://www.epa.gov/nps/tribal-319-grant-program>

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) §128(a) State and Tribal Response Program

Provides funding to help tribes develop basic administrative infrastructure, pass new ordinances and laws, control illegal open dumping, develop emergency response plans, decrease and remove leaking underground storage tanks, and address air pollution issues.

<https://www.epa.gov/brownfields/state-and-tribal-brownfields-response-programs>

LEARNING THE PROCESS FOR WRITING TRIBAL WASTE CODES!

Instructions: Every tribal community has a different process for writing and passing tribal law, but the processes share similar steps. Figure out which steps of the tribal code development process are defined below by using the chart to match the letters with the shapes below.

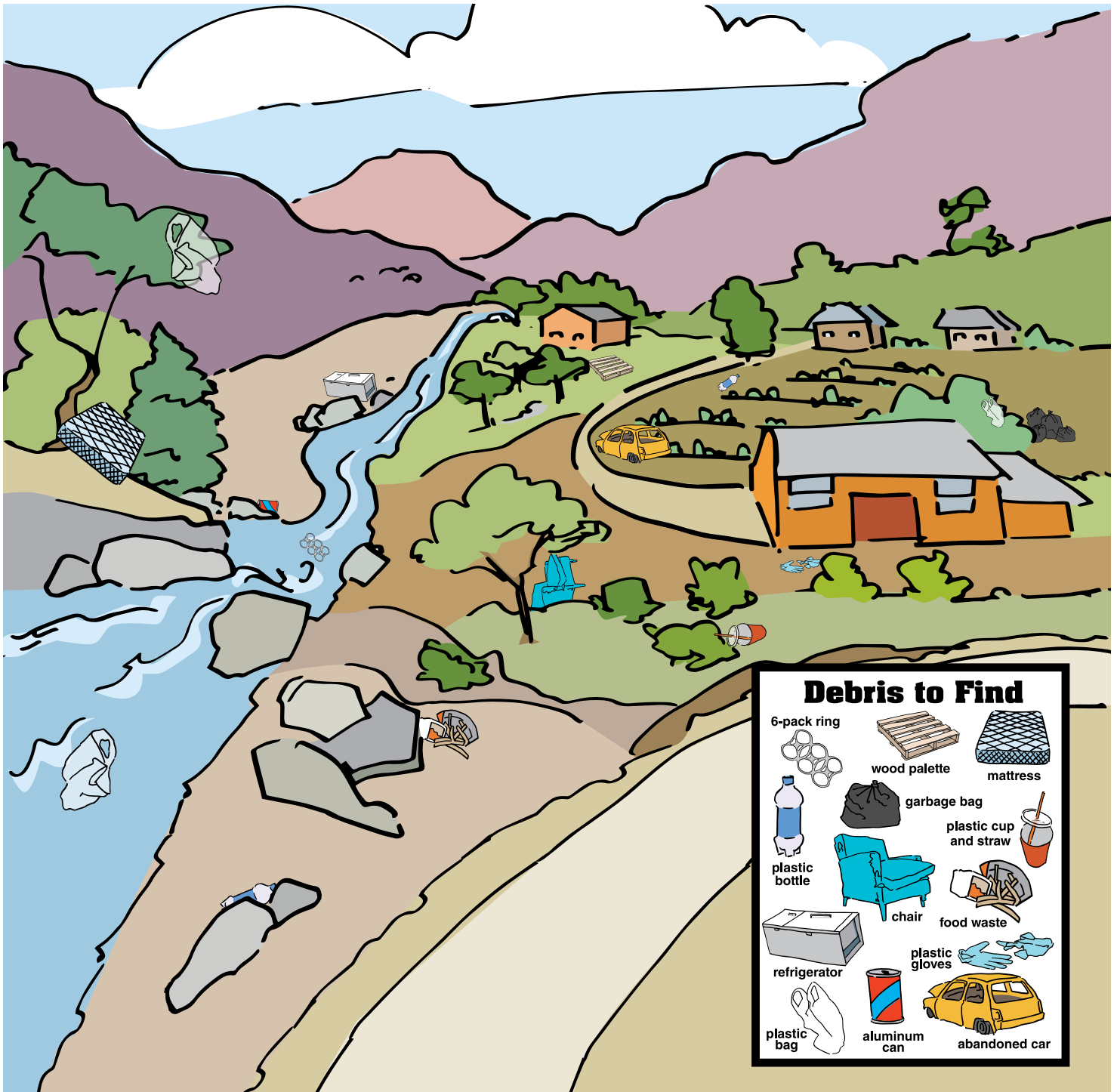
Note: the word “code” means “law.” Other words for “law” include “ordinance” and “act.” They are interchangeable, and every tribe chooses what word to use when referring to tribal law.

= A	= F	= M	= R
= B	= H	= N	= S
= C	= I	= O	= T
= E	= L	= P	= U

1	Happens before a code is written. The authors of the code talk to community members, read articles, and use their computers to find information on the code they are planning to write.	
2	Occurs after the code is written. The authors may create a plan to teach the community about the impacts of the new code.	
3	Happens when the code is violated. May involve tribal police.	
4	The group a code must be presented to for it to be passed and/or adopted by a community.	
5	Teaching community members about the code and what they may have to do to follow it.	
6	Codes and ordinances are created to do this for the natural world and the people, plants, and animals who inhabit it.	

CODE COMPLIANCE: CLEAN UP THE LITTER!

Instructions: Comply with your tribe's codes and keep the land you live on free of litter and waste. Find and circle the debris items that do not belong on the tribal land. There are 16 items to clean up.



Debris to Find

- 6-pack ring
- wood pallet
- mattress
- plastic bottle
- garbage bag
- plastic cup and straw
- chair
- food waste
- refrigerator
- plastic gloves
- aluminum can
- abandoned car
- plastic bag

Secret Code Activity Answer Key

1. Research
2. Implementation
- 3.
- 4.
5. Tribal Council
6. Enforcement
7. Outreach
8. Protect



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