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**ORDINANCE
OF THE
GOVERNING BODY
OF THE
SHOSHONE-PAIUTE TRIBES
OF THE
DUCK VALLEY RESERVATION**

2003 JAN 24 A 10:45

NEVADA AGENCY

ORDINANCE NO. 2003-SPO-03



BE IT ENACTED BY THE GOVERNING BODY OF THE SHOSHONE-PAIUTE TRIBES OF THE DUCK VALLEY INDIAN RESERVATION THAT,

In accordance with Article VI, Section 1 (k) and (l) of the Constitution of the Shoshone-Paiute Tribes of the Duck Valley Reservation, the Tribal Business Council hereby enacts this Ordinance to be known as the "Miscellaneous Forest Products Ordinance", and it shall be effective upon certification.

WHEREAS, The Shoshone-Paiute Tribes finds that it is necessary to establish an Ordinance to ensure the application of sound care and cultivation of forest and woodland trees on the Duck Valley Indian Reservation;

NOW THEREFORE BE IT ENACTED BY THE SHOSHONE-PAIUTE BUSINESS COUNCIL OF THE SHOSHONE-PAIUTE TRIBES THAT, In the Law and Order Code, as enacted, this Ordinance shall govern the harvesting of miscellaneous forest products on the Duck Valley Reservation, Idaho/Nevada, and is herewith duly adopted and approved, and the adoption of this Ordinance rescinds any other Ordinance that may concern the harvesting of miscellaneous forest products.

**SHOSHONE-PAIUTE TRIBES
LIVE AND STANDING TREES CODE**

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**SHOSHONE-PAIUTE TRIBES
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**CHAPTER ONE
MISCELLANEOUS FOREST PRODUCTS
PROVIDING FOR THE REGULATION, PROTECTION,
AND HARVESTING OF MISCELLANEOUS FOREST PRODUCTS**

TITLE: MISCELLANEOUS FOREST PRODUCTS ORDINANCE

SECTION 1.0 PURPOSE

For the development, maintenance, enhancement, and protection of the woodlands and forest lands of the Shoshone-Paiute Tribes; to ensure the application of sound care and cultivation of forest and woodland trees and to apply sound economic principles to the harvesting of miscellaneous forest products as defined herein; the prevention of trespass; and to provide for the enforcement of rules and regulations pertaining to miscellaneous forest products.

SECTION 1.1 DEFINITIONS

- A. "Commercial Forest Land" means forest land that is producing or capable of producing crops of marketable forest products and is administratively available for intensive management and sustained production.
- B. "Forest or Forest Land" means an ecosystem at least one acre in size, including timberland and woodland, which is characterized by a more or less dense and extensive tree cover; contains, or once contained, at least ten percent tree crown cover, and is not developed or planned for exclusive non-forest resource use.
- C. "Forest Products" means marketable products extracted from Tribal forests, such as: timber, timber products; including, ties, bolts, logs, fuel wood, posts, poles, and split products; bark; Christmas trees, stags, branches, firewood, and other marketable material.
- D. "Forest Resources" means all the benefits derived from Tribal forest land, including forest products, soil productivity, water, fisheries, wildlife, recreation, and aesthetic or other traditional values of Tribal forest land.
- E. "Tribal Forest Land" means Tribal forest and woodland, including commercial, non-commercial, productive and nonproductive timber land, and wood land that are considered chiefly valuable not for the production of forest products, but to maintain watershed or other land values enhanced by a forest cover, regardless of whether a formal inspection and land classification action has been taken.
- F. "Miscellaneous Forest Products" means forest and woodland products other than those the Tribal Council permits to be harvested pursuant to approved timber sales authorized by Tribal Council Resolution.

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- G. "Reservation" means the Duck Valley Indian Reservation of the Shoshone-Palute Tribes comprised of all lands within the exterior boundaries of the Duck Valley Indian Reservation.
- H. "Secretary" means the Secretary of the Interior or his or her authorized representative.
- I. "Trespass" means the removal of forest products and miscellaneous forest products from Tribal forest and woodlands or the severance of or injury to trees and plants on Tribal forest or woodland except when authorized by law and applicable federal or Tribal regulations or authorization. Trespass includes any damage to forest or woodland resources on Tribal forest or woodlands resulting from activities under contract or permits obtained through fraud or material misrepresentation of fact. Trespass also includes unlawful possession of Tribal forest or woodland products and the unlawful or wanton injury of or destruction of any tree or trees growing, standing, or being upon Tribal forest or woodlands of the Shoshone-Palute Tribes. Fire Trespass is the act of willfully, or accidentally and without authority, setting fire to or causing to be kindled, any timber, underbrush, grass, or other inflammable material on and within Tribal forest or woodlands. It includes fires, authorized or unauthorized, with a point of origin on or off the trespassed property, which are left unattended or are not extinguished and allowed to burn out of control and cause damage to Tribal property or which require expenditure of public, private, or Tribal funds to control or extinguish.
- J. "Woodland" means forestland not included within the timberland classification, stocked or capable of being stocked, with tree species of such form and size that the wood content is generally marketable within the region for products other than lumber.
- K. " Enforcement Officers" means those officers duly commissioned by the Shoshone-Palute Tribal Council or the Bureau of Indian Affairs with authority to enforce the Miscellaneous Forest Products Ordinance and Tribal Codes, rules, and regulations governing protection and conservation of Tribal forests and woodlands.

SECTION 1.2 TIMBER CUTTING PERMITS

- A. A Timber Cutting Permit for dead standing and dead down trees and any green tree or green wood is required for harvesting miscellaneous forest and wood land products for any purpose except as exempted pursuant to Section 1.15. Permits will be issued only to Tribal members, except as otherwise provided for in this Ordinance. Non-Tribal members will not be allowed to cut in any areas except as exempted pursuant to Section 1.6 or to assist a Tribal member with their harvesting. For Tribal members a Tribal census number is required and will be noted on the permit. The Tribal Council will establish an administrative fee for the permit.
- B. Permits shall be issued at the Tribal Headquarters. Vehicles transporting miscellaneous forest products shall be identified on the permit with a description of the vehicle and license plate number. If an alternative vehicle is to be used, the Wildlife and Parks Office must be notified by providing it with the description of the alternate vehicle and license plate number.
- C. Tribal members approved for a use permit pursuant to Section 1.14 shall receive load removal tickets that shall be displayed in plain view by attaching said tickets to the rear of the vehicle.

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- D. A copy of Instructions and a map of the appropriate area for harvesting shall be attached to each permit issued. The Wildlife and Parks Office, or other appropriate Tribal Office, shall establish appropriate areas for harvesting.

SECTION 1.3 REMOVAL, DESTRUCTION, CUTTING OF GREEN TREES PROHIBITED WITHOUT PERMIT

- A. It shall be a violation for any person, without lawful authority, to willfully injure, sever, girdle, cut, or remove from Tribal forest or wood land, for any purpose, any green tree, or green wood, or timber without first obtaining a permit. Only the Council may approve the cutting of any green tree, or green wood, or timber. Proof of Tribal ownership of the premises and commission of the acts by the trespasser or violator shall be prima facie evidence that the acts were committed willfully, intentionally, and without the required consent.

SECTION 1.4 TRANSPORTING FOREST PRODUCTS; TIMBER CUTTING PERMIT

- A. Hauling miscellaneous forest and wood land products on the Reservation without a timber cutting permit is prohibited.
- B. There shall be no hauling of any miscellaneous forest products on or off the Reservation between the hours of 11:00 p.m. to 6:00 a.m.
- C. The permit shall contain a description by local landmarks of where the forest and woodland products will be cut, the volume or amount and species to be cut, description of the vehicle transporting the products, names, address, and signatures of both the Tribal official and the harvester. The timber cutting permit must be carried by the person transporting the forest products on the Reservation and must be exhibited to any officer of the law, Tribal Wildlife and Parks Department official or other Tribal official, Tribal Law Enforcement Officer, or Bureau of Indian Affairs Officer, upon request.
- D. Miscellaneous forest and wood land products transported on the Reservation without a timber cutting permit, except as provided for in Section 1.15 Free Use Without Permit, shall be subject to confiscation by the Tribal Police, Tribal Wildlife and Parks officials or other Tribal officer, and Bureau of Indian Affairs Officers. Forest and wood land product species not identified on a timber cutting permit will be considered illegal and subject to confiscation. Confiscated products shall be impounded at a designated compound. Forest and wood land products will be distributed to the Tribal elderly on the Reservation, to disabled persons, and/or sold by the Tribes, the proceeds of which will be transferred to the Tribes after disposition of any citation issued for violations. Any violation of this section shall be punished as an offense pursuant to applicable provisions of this Ordinance.

SECTION 1.5 CHRISTMAS TREES

- A. Christmas tree cutting by anyone is strictly prohibited without authorization of the Business Council.
- B. Cutting a large tree just for the top section (to take home for the Christmas tree product) is prohibited.

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- C. When cutting is allowed the maximum stump height shall not exceed ten (10) inches on the uphill side for a legally cut Christmas tree.
- D. Violators of this section will be subject to the penalties set forth in Section 1.16 of this Ordinance.

SECTION 1.6 NON-TRIBAL MEMBER SPOUSE

- A. A non-Tribal member married to a Tribal member must be accompanied by their spouse and/or the Tribal member child when cutting and transporting miscellaneous forest products on the Reservation. Violation of this section is an offense.

SECTION 1.7 FIREWOOD CUTTING: AREAS PROHIBITED

- A. Firewood cutting is prohibited within 200 feet from the edge of streams, lakes, stock ponds, campgrounds, home site lot boundaries, state highways, parks, all closed areas, and within 200 feet of the exterior perimeters of any Tribal ceremonial grounds. All tops and limbs shall be utilized to a four-inch diameter. Maximum stump height shall not exceed 12 inches on the uphill side.
- B. Firewood cutting will not be allowed in any areas specifically designated by the Tribes to exclude such activity.

SECTION 1.8 FIREWOOD CUTTING

- A. Only dead standing and dead down trees may be harvested as firewood products under a permit, unless the Council approves the cutting of green trees or green wood, timber, or shrub. Wildlife and Parks personnel may mark trees for thinning in any of the designated areas.
- B. Trees may be cut for firewood under permit in designated areas on the Reservation. Tribal Wildlife and Parks personnel will identify these cutting blocks. These blocks will be identified at the time the permit is issued.
- C. Dead standing and dead down firewood is available to Tribal members for home use under a free use permit. Forest and wood land products shall not be harvested for resale by anyone.

SECTION 1.9 FIREWOOD CUTTING: SPECIES PROHIBITED DURING AUTUMN

- A. During the period October 15 through May 15 no one is permitted to cut live and standing trees for firewood due to the fact that leaves fall during the autumn, which makes it difficult to determine which trees are dead. Anyone cutting standing trees or hauling green trees for firewood during the period October 15 through May 15 shall be guilty of an offense.
- B. Tribal members may cut dead and down species for firewood during this period.

SECTION 1.10 ENFORCEMENT OF FOREST REGULATIONS

- A. The Tribal Wildlife and Parks Department or other Tribal officials, the Shoshone-Paiute Conservation Officers, Tribal Law Enforcement Officers, and Bureau of Indian Affairs Officers will monitor cutting practices. They shall have authority to enforce this Ordinance through field inspections. Copies of each permit issued will be sent to the Wildlife and Parks Department and Officers.

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SECTION 1.11 DUMPING PROHIBITED AT FIREWOOD CUTTING SITES

It is prohibited to dump trash of any type at firewood cutting sites. All man-made litter, including, but not limited to, oil cans, fuel containers, and beverage containers shall not be left scattered at wood cutting sites. All such litter must be hauled out of the forest or wood land area along with the firewood. Violators may be prosecuted pursuant to Ordinance 67-SPO-4, and in addition, penalties prescribed in Section 1.16 of this Ordinance.

SECTION 1.12 CLEARING ACCESS ROADS PROHIBITED

A. It is prohibited to cut fences, leave gates open, and clear access routes to firewood sources from established roads. There will be no cutting of boundary fences in any event; anyone damaging fences will be fined pursuant to Section 1.16 of this Ordinance. Anyone found guilty of this Section will not be issued a permit for two (2) years.

SECTION 1.13 REPORTING VIOLATORS OF FORESTRY REGULATIONS: SILENT WITNESS

A. Any person having information concerning violations of this Ordinance, and who reports said violations to authorities which leads to the arrest and conviction of said violator, will be paid a monetary reward in an amount to be determined by the Tribal Council. The identity of any person reporting said information shall be kept strictly confidential.

SECTION 1.14 USE PERMIT

A. Use permits for dead standing and down trees or, with Council approval, green tree, green wood, or timber will be issued for the entire Reservation (except in restricted areas) to any enrolled adult Tribal member (18 years old and older) for the following purposes:

1. Fence posts, poles, and stays for personal use.
2. Firewood for personal use on the Reservation. Each household shall be limited to six cords per year. Firewood may be cut for other than personal use when it is for an elderly or disabled Tribal member or other family member. A separate permit is required for each household.
3. Firewood transported off the Reservation by Tribal members for personal use at their residences. No more than six cords per year per household shall be authorized.
4. No Tribal members living on or off the Reservation may be issued a Christmas tree permit for personal use without specific approval of the Council.

B. Use permits may be issued to Reservation schools, recognized religious organizations, Tribal organizations, and local public service units for use within the Reservation.

C. Recognized religious organizations with non-Tribal member pastors may have Tribal members cut firewood for their respective churches.

D. Use permits shall be issued for the annual limit of products to be cut for the duration of the present fiscal year.

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F. Use Products:

<u>PRODUCT</u>	<u>SPECIES</u>
Christmas Tree	Any species shall be six feet tall or less (with Council approval).
Firewood	All dead standing and down (or green tree with Council approval).
Fence	All dead standing and down (or green tree with Council approval).
Poles	All dead standing and down (or green tree with Council approval).

SECTION 1.15 FREE USE WITHOUT PERMITS

- A. No permit is required for Tribal members to cut willow, cottonwood, or other saplings/branches.
- B. No permit is required for Tribal members to cut firewood for wakes, religious gatherings, and ceremonials. There is no limit on the amount under this section except for what is reasonable.
- C. When otherwise allowed by the Council a use permit is always required for Tribal members to cut one Christmas tree per household living on the Duck Valley Indian Reservation.
- D. No permit is required for Tribal members to cut any wood on their home site.

SECTION 1.16 FINES, CIVIL PENALTIES, EXCLUSION FROM RESERVATION; ENFORCEMENT REMEDIES FOR PROHIBITED CONDUCT

- A. Any person, Indian or non-Indian, who is found guilty of conduct or acts prohibited by this Ordinance, shall be guilty of a civil offense and punished as follows:
 - 1. **CONVICTION OF FIRST OFFENSE:** A fine of not less than One Hundred (\$100.00) Dollars or more than Two Hundred Fifty (\$250.00) Dollars. In addition, any seized miscellaneous wood product shall be forfeited to the Tribes.
 - 2. **CONVICTION OF A SECOND OFFENSE WITHIN TWENTY-FOUR MONTHS OF THE FIRST CONVICTION:** A fine of not less than Two Hundred (\$200.00) Dollars or more than Five Hundred (\$500.00) Dollars. In addition, any seized miscellaneous wood products shall be forfeited to the Tribes.

B. SEIZURE OF EVIDENCE: ISSUANCE OF CITATIONS

Tribal and Federal law enforcement agencies including Bureau of Indian Affairs Officers acting pursuant to this Ordinance may prohibit the removal of forest and wood land products from Tribal land or have such products seized for safe keeping and use as evidence of trespass and violation of this Ordinance.

- (i) Whenever an individual authorized to enforce against trespass or violations of this Ordinance has probable cause to believe that trespass activity has occurred or a violation of this Ordinance has occurred, such law enforcement individual may seize and take possession of the products and/or equipment involved in the trespass or violation. All equipment seized shall be kept in the custody of the law enforcement agency for use as evidence unless otherwise ordered by the Tribal Court. Tribal agencies or individuals authorized to enforce this Ordinance shall simultaneously with any seizure give written notice of the seizure to the party in possession of the products, tools, or equipment involved in the trespass or violation. Such notice shall include a statement that the seizure may be appealed to the Tribal Court.

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- (ii) Tribal Wildlife and Parks officials or other Tribal enforcement officials, Tribal or B.I.A. police, and Federal law enforcement officers may issue citations giving notice to the trespasser, buyer, possessor, or violator that a trespass or violation has occurred, basis for the determination, providing notice of the location of the Tribal Court, and a date in which to answer the citation. The accused trespasser or violator shall be required to sign a consent for appearance, and if the individual so accused refuses to sign the consent, said individual may be arrested and taken to the jail for booking and arraignment before the Tribal Court. Non-Indians shall be turned over to the custody of Bureau of Indian Affairs law enforcement custody.
 - (iii) Any firewood seized pursuant to this chapter shall be impounded in a designated area until such time as the violator/trespasser has pled guilty or has been convicted whereupon said wood shall be distributed to homes for the elderly or to disabled persons in need of firewood. An inventory will be kept by the Tribal enforcement agency of all wood seized and delivered with the date of delivery to elderly homes or those of disabled persons. If an accused is found innocent of the offense, any seized wood, equipment, or tools shall be returned forthwith to the accused.
- C. Violation of this Ordinance by a non-Indian or nonmember of the Shoshone-Paiute Tribes may result in a petition for his or her exclusion from the Reservation or referral to the United States Magistrate, the Bureau of Indian Affairs, or U.S. Attorneys for prosecution in addition to the civil penalties and remedies specified herein.

SECTION 1.17 REPEAL OF CONFLICTING CODE PROVISIONS

All conflicting sections of any previous Ordinance or Code are hereby repealed and superseded by this Ordinance.

SECTION 1.18 SEVERABILITY

If any provision of this Code, or the application thereof, is held invalid, the remainder of this Code, or other applications of such provision, shall not be affected.

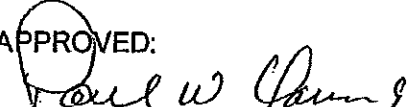
CERTIFICATION

It is hereby certified that the Shoshone-Paiute Business Council is composed of 6 Council Members of whom 6 constituting a quorum and a Chairman were present at a meeting held on the 14th day of January, 2003, and that the foregoing ordinance was adopted by an affirmative vote of 6 FOR, 0 AGAINST and 0 ABSTENTIONS pursuant to the authority contained in Article VI, Section 1 (k & l) of the Constitution of the Shoshone-Paiute Tribes, approved April 20, 1936.


TERRY GIBSON
Tribal Chairman


HELEN HERNANDEZ
Tribal Secretary/Office Administrator

APPROVED:


SUPERINTENDENT, Eastern Nevada Field Office
Bureau of Indian Affairs

1/3/03
Date