

Ordinance No. 47. – Resolution H-152-93 approves the Woodlands Ordinance.

HOPI TRIBAL COUNCIL
RESOLUTION
H-152-93

WHEREAS, the Hopi Tribe is a federally recognized Indian Tribe pursuant to the Indian Reorganization Act of 1934, and is empowered by its Constitution and By-Laws of the Hopi Tribe, under Article VI-POWERS OF THE TRIBAL COUNCIL and Article VII-LAND, to enact its own laws to improve and preserve the rangelands as well as woodlands; and

WHEREAS, the Hopi Tribe is facing an ever-increasing demand on its woodlands and must regulate and manage its woodland resources for the maximum benefit of the Hopi people under the sustained yield principles; and

WHEREAS, the management of this valuable and renewable natural resource is necessary as it not only provides a potential source of income and employment opportunities for the Hopi people, but the harmony of trees, other vegetation, soil, water and wildlife are necessary for our emotional and spiritual well-being; and

WHEREAS, this instrument called the Ordinance for the Control of Woodcutting on the Hopi Reservation was developed in accordance with sound forest and woodland management principles and prepared through studies conducted by the United States Forest Service of the Hopi woodlands; and

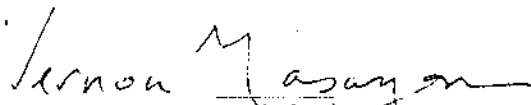
WHEREAS, participation of Hopi tribal members was sought in public meetings.

NOW THEREFORE BE IT RESOLVED by the Hopi Tribal Council that Woodland Ordinance No. 47 for the Control of Woodcutting on the Hopi Reservation is hereby adopted and promulgated as regulations deemed necessary to achieve the sustained yield principle.

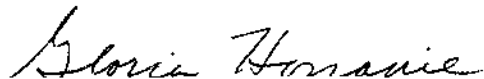
HOPI TRIBAL COUNCIL
RESOLUTION
H-152-93

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the Hopi Tribal Council on October 06, 1993, at a meeting at which a quorum was present with a vote of 15 in favor, 1 opposed, 2 abstaining (Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by Section 1(a)(g) of Article VI of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Hopi Tribal Council on October 24, 1936, and approved by the Secretary of the Interior on December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said resolution is effective as of the date of adoption and does require Secretarial approval.


Vernon Masayesva, Chairman
Hopi Tribal Council

ATTEST:


Gloria Honanie, Tribal Secretary
Hopi Tribal Council

WOODLAND ORDINANCE

ORDINANCE #47

THE HOPI TRIBE
P.O. Box 123
Kykotsmovi, Arizona 86039

WOODLAND ORDINANCE

ORDINANCE # 47

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1.00 GENERAL

1.10 Findings

The Hopi Tribe finds:

That the Hopi Tribe is facing an ever increasing demand on its Woodlands;

That the woodland resource is necessary for the economic and social welfare of all the people of the Hopi Reservation, and the harmony of man, trees, other vegetation, soil, water, and wildlife which are vital to the people's emotional and spiritual well being;

That there is a need to regulate and manage this valuable and renewable natural resource, in District Six, on the Hopi Partitioned Lands, and on all other lands under the jurisdiction of the Hopi Tribe as of December 31, 1992, to assure the sustained ability of the Woodlands to fulfill the desires and expectations of the Hopi People, and to help maintain the quality of the environment, and the productivity of the land; and,

That it is necessary to adopt an ordinance governing the regulation of the use and protection of the Woodlands; and

That it is necessary to place the Woodlands of the Hopi Tribe under the management authority of the Hopi Tribe's Department of Natural Resources to be managed for the maximum benefit of the Hopi people under sustained yield principles.

1.20 Purpose

The purpose of this Ordinance is to provide an adequate and flexible system for the protection and conservation of the woodland resource on the Hopi Reservation while providing an opportunity to utilize the resource.

1.30 Authority

This Ordinance is adopted pursuant to:

The Hopi Tribal Council's authority to make Ordinances to protect the peace and welfare of the Tribe pursuant to the Constitution and By-Laws of the Hopi Tribe, Article VI, Section 1(e); the Council's authority to provide for the trial and punishment of Indians who commit offenses against tribal ordinances pursuant to the Constitution and By-Law of the Hopi Tribe, Article VI, Section 1(e); the Council's authority to delegate authority pursuant to the Constitution and By-Laws of the Hopi Tribe, Article VI, Section 1(l); and any authority delegated to the Hopi Tribal Government by the United States.

1.40 Scope

The provisions of this Ordinance and such regulations as adopted by the Department of Natural Resources to implement the provisions of this Ordinance shall apply to the entire reservation as it existed on December 31, 1992.

2.00 DEFINITIONS

- 2.01 Application - Means the Woodland Product application required to be filed with the Department of Natural Resources pursuant to this Ordinance.
- 2.02 Authorized Contract or Authorized Agreement - Means an existing contract or agreement which meets the following conditions:
(a) The procedures for obtaining contracts and agreements as defined by the Code of Federal Regulations, Title 25, Part 163, General Forest Regulations, have been followed; and
(b) The contract or agreement has been reviewed and approved by the Resources Committee of the Hopi Tribal Council.
- 2.03 Authorized Officer - Means any certified officer of the Hopi Tribe's Office of Hopi Resources Enforcement Services, any Bureau of Indian Affairs Law Enforcement Officer, and any Bureau of Indian Affairs Range Technician.
- 2.04 Barter - Means to trade by exchanging one commodity for another commodity or service.
- 2.05 Boughs - Means any green tree branch.
- 2.06 Reserved
- 2.07 Commercial Use - Means using any woodland product for sale, trade or barter.
- 2.08 Cord - A unit of firewood equal to 128 cubic feet, a stack of wood four (4) feet by four (4) feet by eight (8) feet.
- 2.09 Dead and Down - Means deadwood laying on the surface of the ground.
- 2.10 Dead Tree - Means any standing tree that exhibits no evidence of life as defined in "Green Tree" (2.15).
- 2.11 Deadwood - Dead remains of any tree that exhibits no evidence of life as defined in "Green Tree" (2.15).
- 2.12 Department - Means the Hopi Tribe's Department of Natural Resources, established pursuant to Hopi Tribal Resolution H-184-88.
- 2.13 Diameter at Breast Height (DBH) - Means the diameter, in inches, of a tree measured at four feet, six inches (4'6") from the high side of the ground.

- 2.14 District Six - Means that portion of the Hopi Reservation within the 1882 Executive Order Reservation known and referred to as Land Management District Six as defined in paragraph one of the judgement in Healing v. Jones, 210 F. Supp. 125 (1962), Aff'd, 373 U.S. 758 (1963).
- 2.15 Firewood - Means any deadwood intended for use as fuel.
- 2.16 Green Tree - Means a tree with evidence of green leaves or needles attached to it, or evidence of green appearance when scraped, or evidence of sap exudation from any cut surface.
- 2.17 Hopi - Means any enrolled member of the Hopi Tribe, or any person eligible for enrollment, or any person whose mother is Hopi.
- 2.18 Hopi Partitioned Lands - Means that land outside District Six and within the 1882 Executive Order Reservation that has been partitioned to the Hopi Tribe pursuant to the Settlement Act, plus all lands that may be partitioned to the Hopi Tribe and made a part of the Reservation.
- 2.19 Hopi Ranger - Means a certified officer of the Hopi Tribe's Office of Hopi Resources Enforcement Services.
- 2.20 Manager - Means the Manager of the Hopi Tribe's Department of Natural Resources or person designated to act on behalf of the Manager.
- 2.21 Non-Commercial Use - Means using a woodland product for one's own personal use and consumption and involving no sale, trade or barter.
- 2.22 Permit - Means a written authorization to harvest and/or transport woodland products issued by the Department of Natural Resources.
- 2.23 Permittee - Means a person holding a valid permit.
- 2.24 Person - Means any individual, corporation, company, partnership, association, trust, firm, tribal enterprise, governmental entity or other business organization or association.
- 2.25 Pole - Means any Green Tree or Dead Tree having a diameter at breast height of 5.5 inches to 11.5 inches and a length of twelve (12) feet or more.
- 2.26 Post - Means any Green Tree or Dead Tree having a diameter at breast height of 5.5 inches to 11.5 inches and a length of three (3) feet to eight (8) feet.
- 2.27 Rail - Means any Green Tree or Dead Tree having a diameter at breast height of 5.5 inches to 11.5 inches and a length of eight (8) feet to twelve (12) feet.
- 2.28 Reseryation - Means all lands exclusively reserved for, held in trust for, granted to, partitioned to, or otherwise conveyed to or held for the Hopi Tribe, including but not limited to District Six, Hopi Partitioned Lands, and the Administrative Unit around the Village of Moenkopi.

- 2.29 Resources Committee - Means the Standing Committee on Resources appointed by the Tribal Council.
- 2.30 Settlement Act - Means Public Law 93-351, as amended by Public Law 96-305, codified at 25 U.S.C. 640 d-1 et seq.
- 2.31 Special Management Area - Any area designated by the Department that requires special management to protect the Woodland resource.
- 2.32 Stump Height - The height, as measured from the high side of the ground, of the part of the tree left in the ground after the upper portion is removed.
- 2.33 Timber Stand Improvement Area - Any area designated by the Department where Green Trees may be harvested to improve the health of the woodland stand.
- 2.34 Transplant - To dig up and move to another location for replanting a Green Tree or live plant.
- 2.35 Tribal Council - Means the duly elected governing body of the Hopi Tribe.
- 2.36 Tribal Court - Means the court of the Hopi Tribe.
- 2.37 Unauthorized Livestock - Means any cattle, horse or other equine, sheep, goat, or hog which is not authorized by permit to be upon the land on which the livestock is located. EXCEPT non-commercial pack and saddle stock used by recreationalists, travelers, and other woodland users for occasional trips.
- 2.38 Woodland - Means any ecosystem of at least 20 acres in size covered or once covered with Pinyon and Juniper in any combination which together comprises a crown closure of seven (7) percent or greater.
- 2.39 Woodland Harvest - Means to or attempt to cut, take, remove, or transport any woodland product.
- 2.40 Woodland Harvest Standards - Means a body of guidelines, recommended by the Department and approved by the Resource Committee of the Hopi Tribal Council, which govern the harvest of woodland products.
- 2.41 Woodland Fund - Means a special account in the Tribal Treasury to which all fees and proceeds collected pursuant to this Ordinance shall be deposited, to be used for the benefit of the woodland resource.
- 2.42 Woodland Product - Means trees or shrubs in whole or in part, dead or alive, including branches, roots, bark, nuts, and berries, and other marketable material.
- 2.43 Woodland Road - Means any road within, or adjacent to and serving the woodlands.
- 2.44 Woodland Resource - Means land, woodland products, water, wildlife, and aesthetic and other traditional values.
- 2.45 Woodland Trail - Means a trail within, or adjacent to and serving the woodlands.

2.46 Woodland Trespass - Means any act of illegally removing woodland products or damaging woodland products.

3.00 ADMINISTRATION

3.10 This Ordinance establishes the minimum standards for woodland harvesting affecting the woodland resource, including the procedures and regulations to achieve the goals of the Tribe as stated in Section 1.0 (Findings). The Department may publish additional regulations that are effective upon approval by the Tribal Council.

3.20 This Ordinance shall be administered and enforced by the Department except as otherwise provided.

3.30 The enforcement of this act shall be by both criminal and civil proceedings.

4.00 APPLICATIONS, NOTIFICATIONS AND FEES

4.10 Commercial Permit
No Commercial permit shall be granted unless the Manager has approved a commercial application pursuant to the provisions of this Ordinance.

4.20 Non-Commercial Permit
Non-Commercial permits shall be made available upon application on a first come basis pursuant to the other provisions of this Ordinance.

4.30 Form
The Department shall prescribe the form and contents of the application, except each application must be accompanied by the proper permit fee.

4.40 Contents
The information required by the Department shall include but is not limited to:
(a) Name and address of applicant; and
(b) Description of applicant, if a business; and
(c) If to be sold, a description of the location of sale; and
(d) Description, quantity and species of woodland product; and
(e) An affirmation that the statements contained in the application are true.

4.50 Fees
4.51 The Manager shall make recommendations to the Hopi Resources Committee and the Hopi Resources Committee shall, at least annually, review and establish fees for each type of permit.

4.52 The Manager shall publish and post the fee schedule annually.

4.60 Approval or Disapproval

4.61 Time Limits
The Manager shall approve or disapprove any

application within ten (10) working days of receipt, except:

- a) No incomplete application shall be considered until complete, incomplete applications shall be returned to applicant within five (5) working days of receipt.

4.62 Approval

The Manager may approve an application subject to special conditions, the justification for such special conditions shall be stated in writing.

4.63 Disapproval

- A. The Manager may disapprove an application if:
 - (1) It is improperly filed or inaccurate; or
 - (2) It is not accompanied by the proper permit fee; or
 - (3) It is found not to be in the best interest of management of the woodland resources.
- B. The Manager shall state, in writing, the reasons for disapproval of an application, and return the permit fee to the applicant.

4.64 Review of Decision

- A. Any person affected by any decision made pursuant to this subsection may obtain review by submission of a timely petition to the Resources Committee. Such petition shall be filed within fifteen (15) days of the date of the decision. The Resources Committee shall state its decision, in writing, within twenty (20) days. Exhaustion of this review is a jurisdictional requirement for judicial review.
- B. Any person affected by any final decision may obtain judicial review of such decision by filing a timely petition with the Hopi Tribal Court. Such petition for judicial review shall be filed with the Court, as a civil matter, within fifteen (15) days of the decision of the Resources Committee.

5.00 GENERAL ENFORCEMENT PROVISIONS

5.10 Jurisdiction

5.11 Exclusive Jurisdiction

The Hopi Tribe shall have exclusive jurisdiction to regulate and adjudicate all matters pertaining to all woodlands and all woodland products obtained from those

- woodlands.
- 5.12 Woodlands and Woodland Products Property of the Hopi Tribe
All woodlands and woodland products obtained from those woodlands is the property of the Hopi Tribe and may be used or taken only in such manner as provided by tribal law.
- 5.13 Forum
Except as otherwise provided in this Ordinance, all matters arising under this Ordinance shall be adjudicated in the Hopi Tribal Court.
- 5.14 Consent to Jurisdiction
Any person who, after the effective date of this Ordinance, comes on or obtains a permit, or harvests any woodland product, or transports any woodland product shall be deemed to have consented to all the provisions of this Ordinance and any regulations adopted pursuant to this Ordinance and the jurisdiction of the Hopi Tribe.
- 5.20 Disposition of Fees, Forfeitures, Penalties and Damages
- 5.21 All fees resulting from the sale of permits, all fines, costs, monies, penalties or damages collected for violations of this Ordinance, and proceeds from the sale of forfeited property shall be deposited in the Woodland Fund.
- 5.22 In the case of forfeiture, the Manager shall dispose of the property in a manner consistent with the goals of this Ordinance.
- 5.23 Each Tribal Judge or Clerk of the Court shall, within twenty (20) days after a judgment has been rendered under the provisions of this Ordinance, send a copy of the Judgment Order to the Department.
- 5.24 The Manager shall prepare and present to the Tribal Council annually a report of all monies deposited in the Woodland Fund.
- 5.25 All woodland products seized under this Ordinance shall be disposed of pursuant to the Department regulations, EXCEPT all firewood shall be distributed to village governments for their use or disposal.
- 5.30 Enforcement
All commissioned Hopi Rangers, Bureau of Indian Affairs Range Technicians and Bureau of Indian Affairs Law Enforcement Officers are authorized to enforce this Ordinance.
- 5.40 Inspection
- 5.41 Any authorized officer may stop any person who is in possession of or transporting any woodland product to verify possession of a

- valid permit or other evidence of ownership.
- 5.42 Any authorized officer may, without a search warrant, enter any premises where woodland products are kept for sale to verify possession of a valid permit or other proof of ownership, EXCEPT if the premises is a non-mobile dwelling house and admittance is refused, the officer may immediately request a warrant to allow such entry, if probable cause exists.
- 5.50 Contempt Powers
All parties to actions brought under the Ordinance, whether Hopi or non-Hopi, shall be subject to the civil contempt power of the Hopi Tribal Court and may be sanctioned by any means provided for in Ordinance 21.
- 5.60 Federal Prosecution
Nothing in this Ordinance shall be deemed to preclude the Federal prosecution of non-Indian violators of this Ordinance.
- 5.70 Civil Remedy
- 5.71 Expulsion
Nothing in this Ordinance shall be deemed to preclude the use of the remedy of expulsion of non-Hopis for violation of this Ordinance.
- 5.72 Revocation of Right to Obtain Permit
- A. In addition to other remedies provided by this Ordinance, the Department, may suspend or revoke, for a period not to exceed five years, the privilege to harvest woodland products of any person who:
- (1) Unlawfully takes or possesses woodland products, or
 - (2) Destroys, injures, or molests livestock, or damages or destroys crops, personal property, notices, signboards, or other improvements while harvesting any woodland product, or
 - (3) Litters tribal lands while harvesting any woodland product, or
 - (4) Harvests woodland products in excess of the amount allowed by their permit, or
 - (5) Willfully or carelessly sets or starts a forest fire, brush or grass fire or other destructive fire.
- B. Before any such suspension or revocation, the Department shall notify the person whose privileges may be suspended to appear and show cause why they should not be suspended. Notice

shall be sent to the violator's last known address by registered mail. The decision of the Department may be appealed to the Tribal Court within thirty (30) days of the rendering of that decision.

5.73 Damages

- A. In addition to any other remedies provided by this Ordinance, the Tribe may seek civil damages in an amount calculated to closely approximate the cost of providing equitable restitution to the Tribe for damages caused by each violation of this Ordinance. Damages shall be determined as follows:
- (1) In calculating damages, the Court shall consider, but is not limited to:
 - (a) The cost to the Tribe of producing and/or protecting the resource; and
 - (b) The cost of replacing or restoring the resource; and
 - (c) The general overall costs of enforcement; and
 - (d) The loss to the Tribe of permit revenue; and
 - (e) Damages for trespass;
 - (2) In the event a specific monetary value cannot be placed on such damages, every violator shall be required to pay civil monetary damages of not less than \$500.00.

5.74 Punitive Damages

- A. Nothing in this Ordinance shall be deemed to preclude the Tribe, from praying for and being awarded punitive damages in any action filed for a violation of this Ordinance wherein it is alleged that the violator has committed the acts constituting the violation wantonly, willfully, or maliciously.
- B. The Court, in assessing punitive damages, shall determine their amount in the same manner in which it would determine punitive damages in any other civil action.

5.75 Seizure

- A. Woodland Product
Any woodland product being harvested or transported without a permit or in violation of the terms of a permit, may be seized, and held pending Court proceedings.

B. Equipment
Any machinery, vehicle, or tools being used in any act of woodland trespass may be seized, and held pending Court proceedings.

C. Livestock
Any unauthorized livestock may be seized and disposed of in accordance with Section 108 of Ordinance 43, EXCEPT no notice prior to seizure is required for unauthorized livestock in Special Management Areas and Timber Stand Improvement Areas.

5.76 Forfeiture

A. If a person is convicted of a violation of this Ordinance the Court, in addition to any other penalty imposed by law, may order any vehicle or equipment used in the commission of the violation forfeited.

B. Any woodland product taken in violation of this Ordinance shall be forfeited.

5.80 Criminal Sanctions

5.81 Criminal Offense

Any violation of this Ordinance that is committed willfully, wantonly, or maliciously or any violation committed in circumstances that are especially harmful or offensive to the people or customs of the Hopi Tribe may be charged as a criminal offense. Charges filed pursuant to this section shall be in addition to any civil remedies.

5.82 Penalty

Any Indian who is convicted of a criminal violation of this Ordinance, or for failure to comply with a lawful order shall be punishable by a fine of not more than \$1,000.00, or by imprisonment in jail for not more than six (6) months, or both, unless a different penalty or punishment is specifically provided by this Ordinance for that violation.

5.90 Citations

5.91 Complaint

The citation constitutes the basis for the filing of a complaint and shall conform to Title II, Chapter 2 of Ordinance 21.

5.92 Hearings

A. All hearings to adjudicate civil actions initiated by issuance of citations for violations of this Ordinance, shall be within fifteen (15) court days of the issuance of the citation.

B. All hearings to adjudicate criminal

complaints must comply with Ordinance 21.

5.93 Cite and Release

If the person cited is to be released he must sign the Promise to Appear located on the citation. Any Indian who fails to sign the Promise to Appear shall be arrested and transported to the tribal jail pursuant to tribal law governing the arrest of suspects on citable offenses.

6.00 VIOLATIONS

Except as otherwise provided by this Ordinance, in addition to all other activities prohibited by this Ordinance, it shall be unlawful for any person to:

- (a) Obtain any woodland permit during a period for which a permit has been revoked;
- (b) Enter upon land, that has been closed to entry, to harvest woodland products;
- (c) Pollute any Reservation waters;
- (d) Litter roads, roadsides, campgrounds, waters or any other tribal land on the Reservation;
- (e) Destroy or deface signs, tables, improvements, crops, or personal or real property;
- (f) Cut, damage, or destroy any fence on the Reservation;
- (g) Willfully or carelessly set or start a forest fire, brush or grass fire or other destructive fire;
- (h) Aid or assist in the concealment of any woodland products that has been unlawfully taken or is unlawfully possessed.

7.00 PERMITS

7.10 Permits Required

7.11 It shall be unlawful for any person to transport any woodland product on any road or highway within the Hopi Reservation without a valid permit or other proof of ownership in their possession.

7.12 It shall be unlawful for any person to harvest any woodland product or be in possession of a woodland product that requires a permit, without a valid permit in their possession, or without a valid permit in their possession and the signed authorization of the permittee to act on their behalf.

7.13 It shall be unlawful for any person to fail or refuse to exhibit their permit(s) to an authorized officer.

7.14 It is unlawful to transfer, loan or sell a permit to another person, EXCEPT another person may be given written authorization to

fill a valid permit on behalf of the permittee.

7.20 Types of Permits

7.21 Non-Commercial

A non-commercial permit is required to harvest or transport any woodland product for personal use.

7.22 Commercial

A commercial permit is required to harvest, possess or transport any woodland product that will be sold, traded, bartered, or remanufactured into another product that will be sold, traded or bartered; EXCEPT any Hopi may possess woodland products intended for artistic use without a commercial permit.

7.30 Responsibility of Permit Holder

The permittee is responsible for leaving gates as found, prevention of littering, prevention of damage or destruction to property, such as livestock, fences, windmills and watering tanks, and conformance with any special conditions stated on the permit.

8.00 NON-COMMERCIAL POLE, POST AND RAIL PERMIT

A permit is required to harvest and/or transport any pole, post or rail.

8.10 Eligibility

8.11 Hopis, eighteen (18) years of age or older or heads of households, living on or off the Hopi Reservation.

8.12 Non-profit organizations directly serving the Hopi people within the boundaries of the Hopi Reservation.

8.13 Tribal Government, including Village Governments, and Federal Agencies.

8.20 Procedures

Submit an application for a Non-Commercial permit to the Department or designated permitting office, pursuant to Subsection 4.00.

8.30 Regulations

8.31 Permits are limited to fifty (50) trees per family per year; if additional posts, poles or rails are needed, the applicant must show an approved land assignment, homesite assignment, or livestock grazing permit, before the Manager can consider granting a special permit in excess of fifty (50) trees.

8.32 Permits shall be limited to Pinyon Pine and Juniper trees.

8.33 Stump height shall not exceed eight (8) inches.

8.34 Branches and topping must be piled in a clear area to a height of no more than four (4) feet.

- 8.35 Harvest areas must be cleaned up of all litter and personal items.
- 8.36 The permit shall be valid for sixty (60) days from the date of issuance.
- 8.37 There shall be no refund of permit fees.
- 8.40 Location of Cutting - Anywhere on the Hopi Reservation EXCEPT:
 - 8.41 Within 1/4 mile of any authorized homesite, campground or recreation area.
 - 8.42 On allotted lands, except for allottees themselves (Moenkopi area).
 - 8.43 On Special Management Areas, unless the permittee possesses a special permit.
 - 8.44 Within 150 feet of either side of any major, ranch or woodland road.

9.00 NON-COMMERCIAL BOUGHS PERMIT

A permit is required to harvest and/or transport any Green Tree part identified as boughs.

9.10 Eligibility

- 9.11 Hopis, eighteen (18) years of age or older or heads of household, living on or off the Hopi Reservation.
- 9.12 Non-profit organizations directly serving the Hopi people within the boundaries of the Hopi Reservation.
- 9.13 Tribal Government, including Village Governments, and Federal Agencies.

9.20 Procedures

Submit an application for a Non-Commercial permit to the Department or designated permitting office pursuant to Subsection 4.00.

9.30 Regulations

- 9.31 Permits shall be limited to Pinyon Pine and Juniper boughs.
- 9.32 Boughs may be cut only from the lower 1/3 of the tree, and no more than 1/3 of the live limbs may be cut. Limbs must be cut flush with the main tree.
- 9.33 Harvest areas must be cleaned up of all litter and personal items.
- 9.34 The permit shall be valid for thirty (30) days from date of issuance.
- 9.35 There shall be no refund of permit fees.

9.40 Location of Cutting - Anywhere on the Hopi Reservation, EXCEPT:

- 9.41 Within 1/4 mile of any authorized homesite, campground or recreation area.
- 9.42 On allotted lands, except for allottees themselves (Moenkopi Area).
- 9.43 On Special Management Areas, unless the permittee possesses a special permit.
- 9.44 Within sight of any road.

10.00 COMMERCIAL POLE, POST, AND RAIL PERMIT

Harvest and transportation of poles, posts, and rails for sale, trade or barter is permitted only after securing a commercial permit.

10.10 Eligibility

10.11 Hopis, eighteen (18) years of age or older or heads of households, living on or off the Hopi Reservation.

10.12 Non-Hopis harvesting and transporting woodland products for sale within the boundaries of the Hopi Reservation.

10.13 Tribal Government including Village Governments, and businesses within the boundaries of the Hopi Reservation.

10.20 Procedures

Submit an application for a Commercial permit to the Department pursuant to Subsection 4.00.

10.30 Regulations

10.31 Harvesting is limited to the amount, species and location stated on the permit.

10.32 Stump height shall not exceed eight (8) inches.

10.33 Branches and topping must be piled in a clear area to a height of no more than four (4) feet.

10.34 Harvest area must be cleaned up of all litter and personal items.

10.35 The permit shall be valid for the number of days stated on the permit, but in no case to exceed six (6) months.

10.36 There shall be no refund of permit fees.

11.00 NON-COMMERCIAL TIMBER STAND IMPROVEMENTS (TSI) AREA PERMITS

A special permit is required to harvest and transport any Green Tree from a Timber Stand Improvement (TSI) area.

11.10 Eligibility - Personal Use

11.11 Hopis, eighteen (18) years of age or older or heads of households, living on or off the Hopi Reservation.

11.12 Non-Profit organizations directly serving the Hopi people within the boundaries of the Hopi Reservation.

11.13 Tribal Government, including Village Governments, and Federal Agencies.

11.20 Procedures

Submit an application for a Non-Commercial Special Permit to the Department or designated permitting office pursuant to Subsection 4.00.

11.30 Regulations

11.31 Permits are limited to 200 poles, rails or posts.

- 11.32 Only designated Pinyon Pine and Juniper Green Trees may be harvested and/or transported.
- 11.33 Stump height shall not exceed eight (8) inches.
- 11.34 Branches and toppings must be piled in a clear area to a height of no more than four (4) feet.
- 11.35 Harvest areas must be cleaned up of all litter and personal items.
- 11.36 Camp fires are strictly prohibited.
- 11.37 The permit shall be valid for sixty (60) days from the date of issuance.
- 11.38 There shall be no refunds of permit fees.

12.00 NON-COMMERCIAL CHRISTMAS TREES

A permit is required to harvest and/or transport any Green Tree identified as a Christmas tree.

12.10 Eligibility

- 12.11 Hopis, living on or off the Hopi Reservation.
- 12.12 Tribal Government, including Village Governments, Federal Agencies and Institutions.

12.20 Procedures

- 12.21 Submit an application for a Non-Commercial Christmas tree permit/tag to the Department or designated permitting office pursuant to Subsection 4.00.
- 12.22 Non-Commercial Christmas tree permits shall be available on the Monday before Thanksgiving, until December 24th of each year.

12.30 Regulations

- 12.31 Harvesting shall be limited to Pinyon Pine and Juniper trees. Other species of trees are not to be cut as Christmas trees.
- 12.32 Limit of one Christmas tree permit per household or office.
- 12.33 Only Pinyon Pine or Juniper trees that are ten (10) feet or less in height may be cut.
- 12.34 Stump height shall not exceed eight (8) inches.
- 12.35 Topping of trees is prohibited.
- 12.36 Harvest area must be cleaned up of all litter and personal items.
- 12.37 There shall be no refund of permit fee.
- 12.38 All person(s) harvesting or transporting a Christmas tree must have a valid Christmas tree permit/tag for each tree cut and the permit/tag must be securely affixed to the tree prior to transporting from the harvesting site.

12.39 An authorized tree species that is greater than ten (10) feet in height that is to be utilized for any type of central display may be cut upon approval of a written request to the Manager.

12.40 Location of Cutting - Anywhere on the Hopi Reservation, EXCEPT:

12.41 Any Locations posted by the Department as closed to cutting.

12.42 Within 1/4 mile of any authorized homesite, campground or recreation area.

12.43 On allotted lands, except for the allottees themselves (Moenkopi Area).

12.44 Within sight of any road.

13.00 (RESERVED)

14.00 NON-COMMERCIAL FIRE WOOD PERMIT

A permit is required to harvest and transport all fire wood.

14.10 Eligibility

14.11 Hopis living on or off the Hopi Reservation.

14.12 Non-Hopis, eighteen (18) years of age or older, living within the boundaries of the Hopi Reservation.

14.20 Procedures

14.21 Submit an application for a Non-Commercial harvest and transportation permit to the Department or designated permitting office pursuant to Subsection 4.00.

14.22 Hopis may obtain a permit at no cost.

14.30 Regulations

14.31 Harvest areas must be cleaned up of all litter and personal items.

14.32 The permit shall be valid for sixty (60) days unless otherwise restricted.

14.33 Permittees are allowed a maximum of six (6) cords of wood per year.

14.34 There shall be no refund of permit fees.

14.40 Location of Cutting - Anywhere on the Hopi Reservation EXCEPT:

14.41 Within 1/4 mile from any authorized homesite, campground, or recreation area.

14.42 On allotted land, except for allottees themselves (Moenkopi Area).

14.43 Within Special Management Areas.

15.00 COMMERCIAL FIRE WOOD PERMIT

A permit is required to harvest and transport all firewood for commercial resale.

15.10 Eligibility

15.11 Hopis, eighteen (18) years of age or older, living on or off the Hopi Reservation.

15.12 Village governments.

15.13 Education institutions.

15.14 Non-Hopis harvesting and transporting firewood for sale within the boundaries of the Hopi Reservation.

15.15 Licensed vendors with businesses inside the Hopi Reservation do not need a permit to buy and sell firewood they have purchased from a permittee that is delivered to their place of business. They shall issue a bill of sale to any new purchaser to provide proof of ownership for the purchase. The vendor shall maintain records of commercial permit numbers. These record(s) shall be available to the Manager for inspection.

15.20 Procedures

15.21 Submit an application for a Commercial permit to the Manager pursuant to Subsection 4.00.

15.30 Regulations

15.31 Commercial firewood permits are issued from May 01 through December 31 of each year. The Manager may reduce or extend the time for permitting if damage may occur to the land resource due to the weather conditions.

15.32 Permits shall be valid for a period of thirty (30) days.

15.33 Sale of firewood off the Hopi Reservation is prohibited.

15.34 There shall be no refunds or extensions on harvest/transportation permits.

15.35 The permit must show each load of firewood that is transported.

15.36 Harvest area must be cleaned up of all litter and personal items.

15.40 Location of Cutting

Areas specified by the Department EXCEPT:

15.41 Within 1/4 mile from any authorized homesite, campground and recreation area.

15.42 On allotted land, except for allottees themselves (Moenkopi Area).

16.00 NON-COMMERCIAL TRANSPLANT PERMIT

A permit is required to transplant any Green Tree from the Woodlands.

16.10 Eligibility

16.11 Hopis, eighteen (18) years of age or older living on or off the Hopi Reservation for personal use.

16.12 Non-Hopis, eighteen (18) years of age or older, living within the exterior boundaries of the Hopi Reservation and utilizing the

transplanted tree within the Hopi Reservation.

16.13 Tribal Government including Village Governments, Federal Agencies, and non-profit organizations within the boundaries of the Hopi Reservation.

16.20 Procedures

Submit an application for a Non-Commercial permit to the Department pursuant to Subsection 4.00.

16.30 Regulations

16.31 Permits shall be limited to Pinyon Pine and Juniper trees.

16.32 Ponderosa Pine and Aspen are protected species and may not be transplanted unless a special permit is obtained from the Manager.

16.33 Limit of four (4) transplant tags per household.

16.34 Permit and tags shall be available only from October 15 to May First of each year.

16.35 Holes where trees are removed must be backfilled with the side soil.

16.36 The transplant tag must be attached to each tree before leaving the site where it was dug.

16.37 Harvest area must be cleaned up of all litter and personal items.

16.38 There shall be no refund of permit fees.

17.00 SPECIAL MANAGEMENT AND RESTRICTED AREAS

Certain areas such as, but not limited to areas along flowing waters or springs, may need additional protection from the harvesting and removing of woodland products. Some areas may be restricted from all wood cutting, other areas such as, but not limited to areas along flowing waters or springs may have wood cutting on a special permit basis only.

17.10 Establishment of Special Management Area

17.11 Special Management areas in which wood cutting is prohibited or where special permits are required may be established by the Hopi Resources Committee upon the recommendation of the Manager.

17.12 The Resources Committee shall, at least annually, review all Special Management Area designations.

17.13 A notice of establishment of a Special Management area shall be sent to all interested parties following approval by the Resources Committee and made a part of these regulations by addendum.

17.20 Procedures

Submit an application for a special permit to harvest woodland products in a Special Management area to the Department pursuant to Subsection 4.00.

17.30 Regulations

- 17.31 No commercial permits shall be issued for a Special Management Area EXCEPT pursuant to a management plan approved by the Resources Committee.
- 17.32 Wood cutting is permitted only when no damage to the roads will occur.
- 17.33 Driving across range seeded areas is prohibited.
- 17.34 Where range cabling has been done, and the wood windrowed, the wood shall be harvested nearest the road first and proceeding down the length of the windrow.
- 17.35 The permit must be filled out to indicate each load of wood that is transported from the area.
- 17.36 Harvest areas must be cleaned up from all litter and personal items.

18.00 WOODLAND FUND

18.10 Establishment

A Woodland Fund is hereby established.

18.20 Funding

The Woodland Fund shall be comprised of proceeds received from:

- (a) Permit fees; and
- (b) Trespass penalties, seizures and forfeitures, and other civil penalties; and
- (c) Gifts, grants and contracts; and
- (d) Such allocations of tribal revenues as the Tribal Council, in its discretion, may make from time to time.

18.30 Use of Fund

Expenditures may be made from the Woodland Fund for rehabilitation of damaged areas and improvement of the woodland resource.

18.40 Authorization

Expenditures shall be administered and managed by the Department, with review by the Resources Committee.

19.00 SEVERABILITY

If any provision of this Ordinance should be held invalid by the Hopi Tribal Court or a United States Court of competent jurisdiction, that provision shall be stricken and the remainder of this Ordinance shall remain in full force and effect.

20.00 SOVEREIGN IMMUNITY

Nothing in this Ordinance shall be construed as a waiver, in whole or in part, of the sovereign immunity of the Hopi Tribe.

Ordinance No. 47. – Resolution H-107-99 approves policy regarding the treatment of Tamarisk and Russian Olive Trees.

HOPI TRIBAL COUNCIL
RESOLUTION
H-107-99

WHEREAS, the Constitution and By-Laws of the Hopi Tribe, ARTICLE VI-POWERS OF THE TRIBAL COUNCIL, SECTION 1 (g) authorizes the Hopi Tribal Council "To make ordinances to protect the peace and welfare of the Tribe . . ."; and

WHEREAS, Ordinance 47, the Woodland Ordinance, governs the activities regarding trees on the Hopi Reservation; and

WHEREAS, current interpretations of Ordinance 47 give both tamarisk and Russian Olive trees the full protections of the law; and

WHEREAS, tamarisk and Russian Olive trees are noxious weeds with destructive effects on Hopi wetlands;

NOW THEREFORE BE IT RESOLVED that the Hopi Tribal Council adopts the attached policy regarding the treatment of tamarisk and Russian Olive trees under the Woodlands Ordinance #47;

BE IT FURTHER RESOLVED that the Hopi Department of Natural Resources is directed to ensure that Hopi law enforcement authorities are notified of this policy, and its implications for enforcement of the ordinance;

BE IT FINALLY RESOLVED that the Hopi Department of Natural Resources is directed to notify the public of this policy, and its implications for enforcement of the ordinance.


HOPI TRIBAL COUNCIL
RESOLUTION
H-107-99

CERTIFICATION

The foregoing resolution was duly adopted by the Hopi Tribal Council on September 29, 1999, at a meeting at which a quorum was present with a vote of 11 in favor, 1 opposed, 0 abstaining (Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by ARTICLE VI-POWERS OF THE TRIBAL COUNCIL, SECTION 1 (a) and (g) of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Tribe on October 24, 1936, and approved by the Secretary of Interior on December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said resolution is effective as of the date of adoption and does not require Secretarial approval.


Wayne Taylor Jr., Chairman
Hopi Tribal Council

ATTEST:


Mary A. Felter, Tribal Secretary
Hopi Tribal Council

THE HOPI TRIBE
POLICY REGARDING TAMARISK & RUSSIAN OLIVE TREES

The policy of the Hopi Tribe regarding tamarisk & Russian Olive trees is as follows:

1. Tamarisk and Russian Olive trees are classified as noxious weed species, rather than as trees guaranteed the protections of Woodlands Ordinance #47.
2. None of the provisions in Woodlands Ordinance #47 shall be construed to make it unlawful for any person to transport, harvest, or destroy tamarisk and Russian Olive trees without a valid permit.