



FALLON PAIUTE-SHOSHONE TRIBE

ILLEGAL DUMPING ORDINANCE

Approved by the Fallon Business Council on _____
Through Resolution No.: _____

RESOLUTION

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FALLON PAIUTE-SHOSHONE TRIBE

ILLEGAL DUMPING ORDINANCE

Section 1 Purpose

The purpose of the Illegal Dumping Ordinance is to prohibit open dumps and the illegal dumping, disposal, depositing, placing and burying of any waste materials on all lands and waters of the Fallon Paiute-Shoshone Tribe, in order to protect public health and stop the pollution of soils, waterways, ground water and air, which endangers the environment, natural and cultural resources, and economic security of the Tribe and its members.

Section 2 Authority

Pursuant to the provisions of Article VI – Powers and Duties of the Business Council, Section 1. (h), of the Constitution and Bylaws of the Fallon Paiute-Shoshone Tribe, “To promulgate and enforce ordinances governing the conduct of all people within the territorial boundaries of the Tribe, as provided by Federal Law; and to provide for the maintenance of law and order and establishment of a tribal court”. This ordinance will rescind and replace the Open Dump Ordinance, adopted by the Fallon Business Council on January 26, 1999, through Resolution No. 99-F-022.

Section 3 Jurisdiction

This Ordinance shall apply to all areas within the exterior boundaries of Fallon Paiute-Shoshone Tribal lands.

Section 4 Definitions

“Dumping” is the open disposal, dumping, depositing, dropping, placing, burying or throwing away of any waste materials.

“Electronic Waste or e-waste” are discarded electrical or electronic devices such as computers, computer monitors, tablets, televisions, audio equipment, video equipment, copiers, fax machines, small appliances such as coffee makers, microwaves, vacuum cleaners and any other electronic equipment.

“Groundwater” is the water that exists beneath the land surface, but more commonly is the water in an aquifer.

“Hazardous Waste” is a waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment.

“Illegal Dumping” is the willful, intentional or negligent depositing, dropping, dumping, placing, burying, and throwing of waste materials onto any tribal public or private property that is not expressly or legally designated for the purpose of disposal of waste materials.

“Open Dump” is an illegal waste disposal site.

“Person” refers to any and all persons and parties, including individuals, other organizations or governmental entities.

“Universal Waste” are lamps, batteries, mercury containing devices and lighting ballasts.

“Waste Materials” are any form of items or materials being disposed of, including (but not limited to) solid waste, trash, refuse, junk, debris, garbage (defined as easily decomposable or illegally dumped putrefactive animal and vegetable matter), rubbish (defined as nonputrefactive, nonorganic materials and plant matter), e-waste, universal waste, hazardous waste, liquid wastes, glass, metals, plastics,

papers, asbestos, construction and demolition waste, cardboard, chemicals, tires, used vehicles or appliances, furniture, structures, containers and machinery.

Section 5 Illegal Dumping is Unlawful

It is unlawful and a violation of this ordinance for any person to illegally dump waste materials or to cause waste materials to be disposed of in a manner not otherwise authorized by this ordinance or federal law.

Section 6 Application

All persons over the age of 18 years shall be treated as adults in the prosecution of a violation of this ordinance. The parents or guardians of minors under the age of 18 years shall be held accountable for any illegal dumping committed by any minors for whom they are legally responsible.

Section 7 Enforcement

(a) Prosecution. Any person(s) who violate this ordinance (or their legal guardians, in the case of a minor), may be subject to prosecution before the Fallon Paiute-Shoshone Tribal Court, in accordance with normal court procedures.

(b) Citations. Law enforcement officers may issue citations to any person(s) suspected of having violated this ordinance. In instances where dumping has been witnessed and reported, a law enforcement officer is authorized to issue a citation to the violator.

(c) Warnings. In the case where an officer finds it appropriate to issue a warning to a violator or suspected violator, the officer may require a receipt from an appropriate transfer station or land fill for the proper disposal of the refuse within a specified time period. If the officer does not receive such receipt, the officer may issue a citation.

(d) Hearings on alleged violations shall be conducted in the Fallon Paiute-Shoshone Tribal Court in accordance with normal court procedures.

Any act conducted in violation of this Ordinance, or failure to perform an act required by this Ordinance may be subject to civil procedure by the Tribe. This Ordinance shall not be construed as a waiver of Tribal Sovereign Immunity, or to limit any other civil action or remedy available to the Tribe under Tribal or Federal Law.

Section 11 Penalties Any person found guilty of illegal dumping after due process of law before the Fallon Paiute-Shoshone Tribal Court shall be subject to the following:

(a) First Violation. Up to \$500.00 in fines and/or 100 hours of community service, to be determined by the Fallon Paiute-Shoshone Tribal Court, plus the cost of cleanup for the materials illegally dumped. The community service shall involve the collection and removal of roadside trash or trash which has accumulated in illegal dumps on Fallon Paiute-Shoshone Tribal lands.

(b) Second Violation. Up to \$1,000.00 in fines, plus the cost of the cleanup of the illegally dumped materials and up to 200 hours of community service (as specified in subsection (a) of this section), to be determined by the Court.

(c) Third and Subsequent Violations. Up to \$2,500 in fines per each subsequent offense, plus the cost of the cleanup of the illegally dumped materials and up to 300 hours of community service (as specified in Subsection (a) of this section), to be determined by the Court.

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