



# **FALLON PAIUTE-SHOSHONE TRIBE**

## **ILLEGAL DUMPING ORDINANCE**

**Approved by the Fallon Business Council on September 27, 2022**  
**Through Resolution No.: 22-F-144**



# FALLON PAIUTE-SHOSHONE TRIBE

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Resolution No. 22-F-144

**BE IT RESOLVED BY THE GOVERNING BODY OF THE FALLON PAIUTE-SHOSHONE TRIBE, THE FALLON BUSINESS COUNCIL, THAT:**

**WHEREAS:** the Fallon Business Council is the recognized Governing Body of the Fallon Paiute-Shoshone Tribe and was established to exercise the privileges and powers of self-government, to conserve and develop the Tribe's resources for the social and economic well-being of its members, and to preserve and protect the civil rights of its members; and

**WHEREAS:** the Fallon Tribe is federally recognized by the United States Government and the Secretary of the Interior as a Native American Tribe, and by the power vested in the Tribal Constitution and Bylaws the Council has the authority to enter into contracts and administer any funds within the control of the Tribe; and

**WHEREAS:** the Fallon Tribe is responsible for protecting public health, the environment and conservation of its natural resources ; and

**WHEREAS:** the Fallon Tribe is responsible for preventing the deterioration of the natural environment on the reservation by minimizing impacts from improper disposal of solid waste to the air, surface water, groundwater, wildlife and land resources; and

**WHEREAS:** the Fallon Business Council adopted an Open Dump Ordinance through Resolution No. 99-F-022 on January 26, 1999, and deems it outdated and in need of replacement; and

**WHEREAS:** the Fallon Tribe has developed a new Illegal Dumping Ordinance to prohibit open dumps and illegal dumping on all lands and water of the Tribe, in order to protect public health, environment and natural and cultural resources and quality of life; and

**WHEREAS:** the new Illegal Dumping Ordinance will be codified into the Law-and-Order Code, including the bail schedule required by FPSTLOC Section 4-30-090 (d); and

**NOW THEREFORE BE IT RESOLVED** that the Fallon Business Council hereby rescinds Resolution 99-F-022 Open Dump Ordinance and supports the adoption of the new Illegal Dumping Ordinance; and

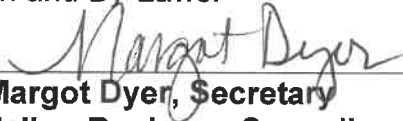
**BE IT FINALLY RESOLVED** that the Chairman of the Fallon Business Council, or his designee in his absence, is hereby authorized to negotiate, sign any related

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documents, and to take any actions necessary to execute the intentions of this Resolution.

**CERTIFICATION**

At a duly held meeting of the seven members of the Governing Body of the Fallon Paiute-Shoshone Tribe, five of which constitute a quorum, there were 6 members present on the 27<sup>th</sup> day of September 2022, who **VOTED 4 FOR, 1 AGAINST, and 1 ABSTENTION(S)**, in the adoption of the foregoing resolution, in accordance with the powers vested by the Fallon Paiute-Shoshone Tribe's Constitution and By-Laws.

  
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**Margot Dyer, Secretary**  
**Fallon Business Council**

**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. Findings.** The Fallon Business Council, on behalf of the Fallon Paiute-Shoshone Tribe, makes the following findings and declarations in support of this Ordinance:

- A. The existing and increasing volume and variety of solid waste, including hazardous waste, generated and disposed of on the Reservation, in combination with the often-inadequate existing methods of managing solid waste and hazardous waste, contribute to land, air, and water pollution, and threaten the economy, public health, safety, welfare, and wellbeing of the Tribe, its members, and residents and other persons on the Reservation. These circumstances also negatively impact the Tribe's natural resources and contribute to deterioration of the environment and quality of life on the Reservation.
- B. The people of Fallon Paiute-Shoshone Tribe have a primary interest in the protection and control of the land and other natural resources affected by the improper disposal of solid waste within the Paiute-Shoshone Reservation and Colony, and the quality of such land and other natural resources must be protected to insure the health, economic, aesthetic and cultural well-being of the Paiute-Shoshone People.
- C. Open dumping is particularly harmful to health, contaminates drinking water from underground and surface supplies and pollutes the land, air and water of the Reservation.
- D. Illegal dumping and environmentally unsound practices for the disposal or use of solid waste and hazardous waste have created greater amounts of soil, air and water pollution and other problems for public health and the environment on the Reservation.
- E. The enactment of this Code is in the best interest of ensuring, promoting, and protecting the health and welfare of the Tribe, its members, and residents and other persons on the Reservation; the character, culture, and historical significance of the Reservation; and the Reservation's natural environment.

**Section 3. Authority & Scope.** This Illegal Dumping Ordinance is hereby adopted by the Fallon Business Council, pursuant to the inherent sovereign authority of the Paiute-Shoshone Tribe, and the authority vested in the Business Council under Article VI, Section 1. (h) of the Constitution and Bylaws of the Tribe.

Because any violation of this Ordinance or any regulation adopted thereunder will demonstrably and seriously impact the environment, including land, water and air, natural resources, public health, safety, welfare, political integrity and economic security of the Tribe, this Ordinance, and any regulations adopted thereunder, shall apply to: (1) all persons within the exterior boundaries of the Reservation, without exception, including but not limited to, all Tribal members, and all other persons on the Reservation, including any Indians who are members of other Indian tribes, all non-Indians, and any other person as defined under the Ordinance; and (2) all places and lands located anywhere within the exterior boundaries of the Reservation, including all trust and non-trust lands, and notwithstanding the issuance of any patent, fee, allotment, right-of-way, lease, or any real property interest of any kind, held by any person as defined under this Ordinance.

Any person who is not a member of the Tribe who uses land anywhere within the exterior boundaries of the Reservation, whether trust or non-trust land, enters into consensual relationships with the Tribe or its members, through commercial dealings, contracts, leases or other arrangements. Such person's use of land involving the storage, collection, transportation, and disposal of solid or hazardous waste on the Reservation will have a demonstrably serious impact upon the environment, natural resources, public health, safety, welfare, political integrity and economic security of the Tribe and its members, unless such use is in compliance with the provisions of this Ordinance, and any regulations promulgated hereunder.

This ordinance rescinds and replaces 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.**

- A. "Dumping" is the open disposal, dumping, depositing, dropping, placing, burying or throwing away of any waste materials.
- B. "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.
- C. "Groundwater" is the water that exists beneath the land surface, but more commonly is the water in an aquifer.
- D. "Hazardous Waste" is a waste with properties that make it dangerous or capable of having a harmful effect on human health or the environment.
- E. "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.  
F. "Open Dump" is an illegal waste disposal site.

- G. "Person" refers to any and all persons and parties, including individuals, other organizations or governmental entities.
- H. "Universal Waste" are lamps, batteries, mercury containing devices and lighting ballasts.
- I. "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.** Disposal of solid waste in any open dump is expressly prohibited within the exterior boundaries of the Reservation. 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 tribal or federal law, anywhere within the exterior boundaries of the Fallon Paiute-Shoshone reservation.

**Section 8. Enforcement.** The Fallon Paiute-Shoshone Tribal Court shall have jurisdiction of all cases and controversies arising under this ordinance.

- 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, or to civil citation, fines, and/or forfeiture as further provided in the Fallon Paiute-Shoshone Tribal Law and Order Code.
- 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 such person to return a receipt from an appropriate transfer station or land fill evidencing 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. Nothing in this Ordinance shall be construed as a waiver, in whole or in part, of the Fallon Paiute-Shoshone Tribe's sovereign immunity from suit, nor to limit any other civil action or remedy available to the Tribe under Tribal or Federal Law.

**Section 9 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 waste 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.