

FIREWOOD GATHERING CODE  
KLAMATH TRIBAL CODE  
Title 3 Chapter 24

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## **THE KLAMATH TRIBES FIREWOOD GATHERING CODE**

### **Section 1: Purpose:**

#### **1-1**

This code establishes rules and regulations governing the gathering of firewood and other wood resources. This code is enacted to protect and preserve the Klamath Tribes right to gather firewood and other wood resources as referenced in Sections 3-1 and 5-9 of this code. This code is also enacted to ensure that the gathering of firewood and other wood resources within the former reservations boundaries is harmonious with the guidelines and policies concerning the conservation of natural resources previously enacted by the Executive Committee, Klamath Indian Game Commission.

### **Section 2: Authority:**

#### **2-1**

The rights to hunt, fish, trap, and gather within the boundaries of the former Reservation was reserved by the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians in The Treaty of October 14, 1864 (16 Stat. 707). The authority to regulate the use of natural resources within the boundaries of the former Klamath Reservation is reserved to The General Council in Article V Section I of the Constitution and by-laws for the Klamath Tribe.

#### **2-2**

The Executive Committee is authorized to adopt rules necessary for the conduct of Tribal business as delegated pursuant to Article V. of the Constitution and by-laws for the Klamath Tribe.

#### **2-3**

The Klamath Indian Game Commission is delegated and authorized to adopt wood gathering ordinances and regulations pursuant to Article V-Sec. J. of the constitution and by-laws for the Klamath Tribes.

#### **2-4**

The Klamath Tribes Natural Resources Department is authorized to Administer and enforce the ordinances and regulations established by The Executive Committee and Klamath Indian Game Commission of the Tribes.

**Section 3: Jurisdiction:**

**3-1**

This code extends to any enrolled member of the Klamath Tribes when exercising there right to gather firewood and other wood resources pursuant to Section 2-1 of this Code.

**3-2**

This code applies within the boundaries of the former Klamath Reservation as reserved to the Klamath, Modoc, and the Yahooskin Band of Snake Indians in the Treaty of 1864, with its boundaries defined as they existed on August 13, 1954.

**3-3**

This code applies on state land, and on private land where the parties have consented to the exercise of Klamath rights to gather firewood and other wood resources.

**Section 4: Definitions:**

**4-1** "Klamath" Tribes shall mean the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians

**4-2** "Executive Committee" shall mean the Executive Committee of the Klamath Tribes.

**4-3** "Game Commission" shall mean the Klamath Indian Game Commission (K.I.G.C.).

**4-4** "Former Reservation" shall mean the tract of land set apart for the Klamath Tribe by the Treaty of 1864, with its boundaries defined as they existed in August 13, 1954.

**4-5** "Household" shall mean persons living within the same dwelling who are related to the third degree of collateral consanguinity.

**4-6** "Klamath Court" shall mean the Klamath Tribal Court of the treaty resource management plan.

**4-7** "Tribal Member" shall mean any duly enrolled member of the Klamath Tribes, as defined by the Tribal Constitution and by-laws.

**4-8** "Violation" shall mean any act or omission of act contrary to this code by any person subject to this code.

**4-9** "Fire wood" shall mean standing dead Lodgepole or Fir and fallen/ down wood.



## **Section 5: Firewood Gathering Permits:**

- 5-1** Permits shall be issued free of charge to Tribal members upon their request, giving the permittee the right to gather firewood on the former reservation in compliance with the rules and regulations specified in the permit document and this code.
- 5-2** Each permit will allow the permit holder to gather up to ten (10) cords of wood per year.
- 5-3** No more than one (1) permit shall be issued per year per Tribal member without prior written consent of the Klamath Indian Game Commission (K.I.G.C.), or authorized staff to gather firewood for tribal elders, handicapped or otherwise needy tribal members.
- 5-4** Permits shall be non-transferable except that a permit issued to a tribal member may be used by any other Tribal member living within the permit holders household.
- 5-5** No sales or other commercial transaction involving firewood is permitted.
- 5-6** When gathering or transporting firewood, the permittee shall have the permit in their possession.
- 5-7** Failure to exhibit the permit to a tribal officer upon their request shall be a violation.
- 5-8** Permits shall apply exclusively to the collection of firewood within the former reservation area as it was in 1954.
- 5-9** Special permits may be issued by the Klamath Indian Game Commission or authorized staff to gather firewood for tribal elders, handicapped or other wise needy tribal members.
- 5-10** Tribal members do not need a permit to gather small quantities of wood for non-firewood subsistence, cultural and spiritual uses on a year around basis. This includes, but is not limited to, gathering green and dry aspen and mahogany for smoking meat, gathering willows for hoops, gathering poles for tee-pee, subsistence, and camping purposes, and other cultural and spiritual purposes. The quantity of wood gathered under this provision shall not exceed one-half (1/2) cord per household per month. Tribal members shall have their Klamath Treaty Card in their possession when gathering these non-firewood materials.
- 5-11** Notwithstanding any permit, the Klamath Indian Game Commission, reserve the right to restrict firewood gathering areas for reasons including, but not limited to timber sales, Tribal public safety, fire protection, wildlife, fisheries, and habitat preservation..
- 5-12** Tribal members must have fire protection tools such as axe, shovel, water container or fire retardant when gathering fire for subsistence use.

**Section 6: Enforcement:**

- 6-1** The Natural Resources Department shall be responsible for the issuance of permits.
- 6-2** The Natural Resources Department shall be responsible for the supervision and enforcement of the regulations contained within this code, including issuing citations for violations of this code.
- 6-3** Persons denied a permit shall be entitled to a hearing within a reasonable time, not to exceed 90 days, before the Klamath Indian Game Commission (K.I.G.C.) or The Klamath Tribal Court.
- 6-4** Persons issued a citation shall be entitled to a full hearing on the charge or charges brought against them in tribal court.
- 6-5** Persons convicted of violation of the rules expressed in this code shall be subject to penalties imposed by the Klamath Executive Committee or their authorized Appointees.
- 6-5-1** Penalties for code violations may include, but are not limited to:
  - 1) Forfeiture of any timber gathered.**
  - 2) Monetary fines not to exceed \$500.**
  - 3) Revocation of current permit.**
  - 4) Denial of future permits.**
  - 5) Probation**
- 6-5-2** Penalties for first and second time code violators shall be administered in accordance to the schedule of penalties as set forth in Sec. 7 of this code. Variations from this schedule may be permitted if good cause is shown.
- 6-5-3** Penalties for repeat code violators beyond a second offense shall be determined by the Klamath Indian Game Commission (K.I.G.C.) or Klamath Tribal Court.

**Section 7: Schedule of Penalties for Violations of the Klamath Tribal Firewood Gathering Code:**

<u>Violation</u>	<u>Sec. No.</u>	<u>Penalty.</u>
1. Gathering firewood in excess of permit limit.	5-2	<u>First Offense</u> -Forfeiture of firewood in excess of permit limit. <u>Second Offense- Fine-\$50.00</u> Forfeiture of firewood in excess of permit limit.
2. Transfer or attempted transfer	5-3	<u>First Offense-Fine-\$50.00</u> of permit. <u>Second Offense-Fine -\$100.00</u> Revocation of permit. Denial of Permit privileges for one (1) year.
3. Use of another's permit in violation of sec.	5-4	<u>First Offense-Fine -\$50.00</u> <u>Second Offense-Fine- \$100.00</u> Revocation of permit. Denial Permit privileges for one (1) year.
4. Selling of gathered firewood.	5-5	<u>First Offense-Fine-\$50.00</u> <u>Second Offense- Fine-\$100.00</u> Revocation of permit. Denial of Permit privileges for one (1) year.
5. Failure to exhibit permit to tribal officer upon request.	5-6	<u>First Offense</u> - Forfeiture of Firewood gathered. <u>Second Offense- Fine -\$ 50.00</u> Forfeiture of firewood gathered.
6. Gathering or transporting firewood by a permittee without a permit on their person.	5-7	<u>First Offense</u> - Forfeiture of firewood gathered. <u>Second Offense- Fine-\$50.00</u> Forfeiture of firewood gathered.



7. Gathering or use of non-firewood  
in violation of Sec 5-10

First Offense- Fine -\$25.00  
Forfeiture of Firewood gathered.  
Second Offense- Fine-\$50.00  
Forfeiture of Firewood gathered.  
Revocation of permit.

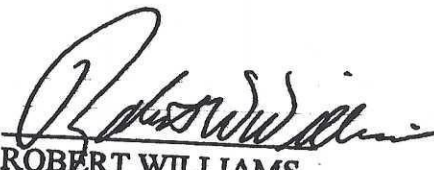
8. Gathering firewood in restricted  
areas. 5-11

First Offense- Fine -\$25.00  
Forfeiture of Firewood gathered  
Second offense- Fine-\$50.00  
Forfeiture of Firewood gathered.  
Revocation of permit

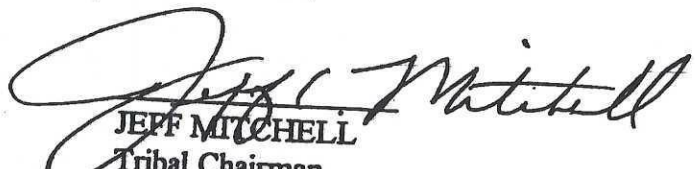
9. Gathering fire wood without fire  
protection tools on possession. 5-12

First offense - Fine\$25.00  
Second offence - Fine \$50.00

- (b) This MOA shall not be construed to create or waive any right, claim or defense that would otherwise be available to either party under the Treaty, trust responsibility, the Kimball v. Callahan Consent Decree, or applicable laws of the United States.
- (c) The parties agree that neither party shall be prohibited from referring to this MOA in any proceeding for the sole and limited purpose of showing that the procedures and protocols set out herein had or had not been complied with in a particular instance, provided that demonstration of compliance or non-compliance with the procedures and protocols shall not serve as evidence or authority in any proceeding that either party has met or has violated its legal obligations under any applicable law, including but not limited to the Klamath Treaty of 1864, the trust responsibility, the Kimball v. Callahan Consent Decree and other applicable federal law.
- (d) Either party may terminate this MOA by providing 180 days written notice to the other party. If a party wishes to terminate the MOA, every effort will be made to resolve differences and define a working relationship prior to termination.

  
ROBERT WILLIAMS  
Regional Forester  
Region Six  
USDA Forest Service

Date: 2/19/99

  
JEFF MITCHELL  
Tribal Chairman  
The Klamath Tribes  
Executive Committee

Date: 2-19-99