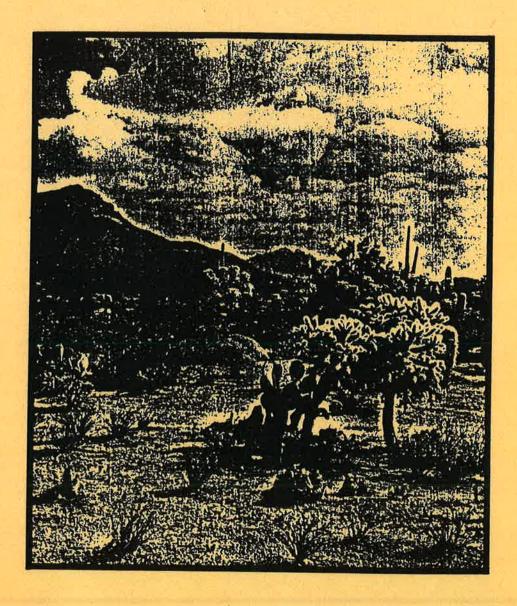
NATIVE PLANT ORDINANCE



LAND USE PLANNING & ZONING



GILA RIVER INDIAN COMMUNITY ORDINANCE GR-03-90

AN ORDINANCE MODIFYING ARTICLE 1, SECTION 1, PART D, OF ORDINANCE GR-04-85 OF THE NATIVE PLANT LAW.

THE GILA RIVER INDIAN COMMUNITY COUNCIL HEREBY ENACTS THE FOLLOWING AMENDMENT TO THE NATIVE PLANT LAW.

- WHEREAS, The beauty and natural resources of this Community are of the highest value to our people; and
- WHEREAS, The native plants growing on the Gila River Indian Reservation are a natural resource of aesthetic, ecological, educational, historical, scientific, and recreational value to the Community; and
- WHEREAS, A serious danger now exists to these resources due to the wanton and thoughtless removal of cactus and other native plants, thereby endangering and destroying the natural flora which has been protected by the Pima and Maricopa Indians for centuries; and
- WHEREAS, Woodcutting for domestic use and sale have also created a serious and potentially dangerous crisis by depleting presently available mesquite and other woods on the Reservation; and
- WHEREAS, Such acts also endanger and destroy the natural habitat of wildlife, game animals, as well as wildlife itself; and
- WHEREAS, Such acts contribute to soil erosion and flooding which destroy man-made as well as natural resources; and
- WHEREAS, It will be difficult if not impossible to restore these natural resources once destroyed; and
- WHEREAS, Such potential harmful consequences are detrimental to the health, peace and general welfare of the Gila River Indian Community and its members; and
- WHEREAS, The Gila River Indian Community established a Native Plant Law to protect certain flora indigenous to the trust lands of the Reservation (GR-04-85); and
- WHEREAS, Ordinance GR-04-85 was in need of revision to encompass woodcutting as an activity that requires stringent regulation.

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PIMA AGENCY SACATON GILA RIVER INDIAN COMMUNITY ORDINANCE GR-03-90 NATIVE PLANT LAW PAGE 2

NOW THEREFORE BE IT RESOLVED, that the Gila River Indian Community Council hereby amends and replaces Article 1, Section 1, Part D of Ordinance GR-04-85 by enacting the attached Native Plant Law.

CERTIFICATION

Pursuant to authority contained in Article XV, Section 1, (a) (9), (1), (b), (8) and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community ratified by the Tribe, January 22, 1960, and approved by the Secretary of the Interior on March 17, 1960, the foregoing Resolution was adopted this 20th day of June, 1990, at a Regular Council Meeting held in DISTRICT #3, Sacaton, Arizona, at which a quorum of 15 members were present by a vote of 15 FOR: 0 OPPOSE: 0 ABSTAIN: 2 ABSENT: 0 VACANCY.

GILA RIVER INDIAN COMMUNITY

LT. GOVERNOR

ATTEST:

TRIBAL COUNCIL SECRETARY

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GILA RIVER INDIAN COMMUNITY Ordinance No. 03 - 90 Native Plant Law

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GILA RIVER INDIAN COMMUNITY Ordinance No. 03 - 90 Native Plant Law

ARTICLE I. PROTECTION

SECTION 1 - PROTECTED GROUPS OF PLANTS; BOTANICAL NAMES TO GOVERN; POWER TO ADD OR REMOVE PLANTS

- A. The botanical (Latin binomial) names of the plants referred to in this article shall in all cases govern in the interpretation of this article. Protected native plants shall be any plant or part thereof, to include fruit, but not seeds, of plants in the named protected groups, which is growing wild on trust land of the Gila River Indian Reservation, to include Tribal and allotted land, without being propagated or cultivated by human beings.
- B. The following shall constitute certain named protected native plants that are prohibited from being dug up, collected and/or removed from their original growing sites, or destroyed or mutilated, except by permit approved by the Natural Resources Standing Committee of the Gila River Indian Community Tribal Council:

Bursera microphylla: elephant tree;

Peniocereus greggii: night blooming cereus; Tumamoca mcdougalli: tumamoc globe berry;

Neolloydia erectocentra var. acunensis: Acuna Valley pineapple cactus;

Cheilanthes pringlei: pringle lip fern; Bacopa rotundifolia: disk water hyssop;

Castela emoryi (Holocantha emoryi): crucifixion thorn;

Atriplex hymenelytra: desert holly; Fouquieria splendens: ocotillo;

Mammillaria thornberi: thornber fishhook cactus;

Colubrina californica: California snakewood; Euphorbia trachysperma: roughseed spurge; Selaginella eremophilla: desert spikemoss;

Dalea spinosa: smoke tree;

Cereus giganteus: saguaro cactus;

Ferrocactus acanthodes eastwoodiae: golden barrel cactus;

Olneya tesota: ironwood tree;

Juniperus monosperma: one seeded juniper;

Cercidium microphyllum: little leaf paloverde;

Cercidium floridum: blue paloverde;

- C. The following shall constitute the protected group of plants, whose member species, whether named or not, shall be prohibited from being dug up, collected and/or removed from their original growing sites except by permit:
 - 1. All species of the following families:

Liliaceae (lilies, including yucca and sotol);
Agavacea (agaves);
Orchidaceae (orchids);
Crassulaceae (orpines);
Cactaceae (cactus).

2. All species of the following genera:

Lobelia (lobelia); Aquilegia (columbine)

3. The following plant assemblages, whether or not their individual component species are in the protected group:

Rare, unique or sensitive plant assemblages of scientific value, to include relict or undisturbed natural areas, and plant assemblages which provide essential habitat for rare, threatened or endangered wildlife species.

Mesquite bosques, considered "sensitive" habitat necessary to the survival of a number of wildlife species, white winged dove among them.

- 4. All plants protected under the Arizona Native Plant Law are included in the protected group under this Ordinance, whether named in this Ordinance or not
- 5. Plant species and critical habitats protected under the Federal Endangered Species Act are protected on trust lands, and are included in the protected group under this Ordinance, whether named in this Ordinance or not.
- 6. Plant species and assemblages may be added to or deleted from protected status by the Tribal Council.
- D. Fuelwood cutting/gathering is a right reserved exclusively for Community members. Cutting/Gathering of fuelwood by persons other than Community members is a violation of this Native Plant Ordinance. In particular, mesquite (Prosopis spp.) is protected under Section 1.C.(4). Fuelwood cutting/gathering by persons other than Community members is also a violation of Section 2A of GR-03-81, Civil Trespass. (See GRIC Civil Code, Title 5, Chapter 1, Article 5.101-A.10 et seq.)

The sale of fuelwood to non-tribal members off the Reservation of the Gila River Indian Community is hereby prohibited; non-resident tribal members are given the privilege to obtain fuelwood for domestic purposes only, and shall be required to obtain a special permit to transport wood off the Reservation, from the Land Use Planning Program office, located at Sacaton, telephone number 562-3301. Proof of residence must be supported by both a utility bill and a current tribal identification card.

No permit is required for the sale of domestic wood to other members of the Gila River Indian Community, however, the sold wood shall not be allowed to leave the boundaries of the Gila River Indian Community. Only the non-resident tribal member shall be allowed to transport wood to his/her place of residence provided that the above special permit is obtained. Resale of domestic wood by non-resident tribal members shall be considered a violation of this Ordinance, Article III, Section 2 - Violations.

The amount of fuelwood which may be cut by non-resident tribal members as set forth in this Ordinance shall be one cord per month. One cord of wood shall measure four feet by four feet by eight feet (4' x 4' x 8'); an eight-foot bed pickup load with side boards is accepted to be approximately one cord of wood.

No amount limit shall be set for the domestic use of mesquite wood for Community members.

- SECTION 2 DELEGATION OF COUNCIL AUTHORITY; PERMITS, TAGS AND FEES; EXEMPTIONS; ISSUANCE OF PERMITS AND TAGS; COLLECTION AND USE OF FEES
- A. The Tribal Council shall delegate to the Natural Resources Standing Committee authority to approve requests for permits to collect protected native plants, or parts thereof.
 - 1. The fee for a collection permit shall be \$500. The Natural Resources Standing Committee shall have the right to waive the fee if collection of plants is to be performed by a non-profit organization for scientific and/or educational purposes. Permit fees are non-refundable. No permits shall be issued to non-members of the Gila River Indian Community for the purpose of collecting plants for resale.
 - 2. Members of the Gila River Indian Community wishing to collect plant parts for their personal use and Community groups wishing to collect plants for non-commercial beautification projects are exempt from the \$500 permit fee, and are exempt from all other fees specified in this Ordinance; however, members of the Community and Community groups wishing to collect native plants protected by this Ordinance must abide by all other provisions of this Ordinance, including application to the Natural Resources Standing Committee for permission to collect.
 - 3. The Tribal Lease Compliance Officer shall issue collection permits and tags and shall collect fees as applicable. The permits will specify the name or business name of the permittee, the kind(s) and numbers(s) of plant(s) to be collected, will define as precisely as possible the geographic area from which they are to be removed, and will specify the term for which the permit is valid. A permit is invalid unless it bears on its face the tag identification numbers of the plant(s) to be collected legally. A permit to take, transport, or possess protected native plants is non-transferrable.

4. Plant identification tags for each plant to be removed will be issued by the Tribal Lease Compliance Officer and affixed to plants. The non-refundable fee for each tag will be \$3. Tags will identify the permittee, project (if applicable), date of issue, location of collection site, plant species to which they will be affixed, and place(s) to which the plant will be moved. Each tagged plant will be assigned an identification number. It will be the responsibility of the Tribal Lease Compliance Officer to issue, record and affix the tags to the plants to be removed from their original growing sites.

No tag is valid unless it is issued under a valid permit, and no plant may be moved from its natural growing site until the Tribal Lease Compliance Officer has affixed a tag to the plant. It is unlawful to alter or deface any permit or tag.

- 5. No person, except as provided in this article, shall take, transport or have in his possession any protected native plant removed from its original growing site on the Gila River Indian Reservation unless he has a valid permit on his person at the time of taking, and unless each plant in his possession has a valid collection tag affixed to it.
- 6. Permits and/or tags shall be made available for inspection upon request of any member of the Gila River Indian Community or any of its authorized agents, or Federal or State of Arizona peace officers or agents charged with enforcing laws and statutes protecting native flora of Arizona, as provided in cooperative agreements between local police agencies and the Gila River Indian Community.
- 7. After any protected native plant has been taken legally as provided by this Ordinance, it shall be unlawful to remove the affixed tag until the plant has been replanted in its permanent site.

If the permanent site is within the boundaries of the Gila River Indian Reservation, the tag shall be removed only by the Tribal Lease Compliance Officer, who shall record the permanent site of the tagged plant(s) by tag identification number(s), and will store the tags as proof of legal taking under the provisions of this Ordinance.

If the permanent site of the plant(s) is outside the boundaries of the Gila River Indian Reservation, State of Arizona or Federal agents, as appropriate, shall have authority to inspect the plants in their permanent location, and shall remove the tags and return them to the Tribal Lease Compliance Officer, who shall then issue a letter of ownership itemizing the plants in the legal possession of the ultimate owner. The fee for issuing a letter of ownership is \$10.

- 8. No permit or tag is transferable by the permittee or his agents, nor shall it be used by anyone except the person or institution to which permit and tags were issued, nor shall permit and tags be applicable to any more native plants than indicated by species and number on the permit.
- Any permittee shall be responsible for the acts of any other person or persons acting under any authority expressed or implied by the permittee.
- 10. It is unlawful for any person or institution to misuse a permit or tag in any manner, or to falsify any paper or document issued to any person to take native plants of the protected group or to take more native plants than authorized by the permit. Misuse of a permit or tag or falsification of documents will result in forfeiture of the right to collect native plants on the Gila River Indian Reservation both for the time remaining before expiration of a permit (if any) and at any future time.
- 11. The portion of the permit authorizing collection of native plants shall expire when the Tribal Lease Compliance Officer completes affixing tag(s) with identification number(s) to the plant(s) to be removed from their natural growing site(s), or on the date of expiration, whichever comes first.

After the time the affixing of tags is complete, no further collection shall occur, and the Tribal Ordinance Officer shall stamp EXPIRED on that portion of the permit authorizing collection. Portions of the permit authorizing storage and transportation shall remain valid until the expiration date of the permit.

Any permit to collect plants shall become null and void when the land on which the plants are growing, as described in the permit, changes ownership, unless the new owner certifies in writing that the permittee may continue taking such plants as are specified in the permit.

12. Plants which are to be transported on the Reservation, except within the boundaries of an allotment, must be issued a permit to ship issued by the Tribal Ordinance Officer, and an accompanying certificate of inspection identifying by permit number and tag identification number the plants to be shipped. No fee will be charged Community members.

- 13. Native plants imported onto the Reservation which are under the protection of Federal and/or State of Arizona law must be cleared for compliance with applicable non-Tribal regulations by the Tribal Ordinance Officer before they can be planted in their permanent installation site. The Tribal Ordinance Officer shall reinspect the plants after permanent installation and shall at that time record the tag identification numbers, remove any issue a letter of clearance certifying that the plants itemized by species and tag identification number were permanently installed on the Gila River Indian Reservation, giving date and location. The fee for issuing a letter of clearance will be \$10.
- 14. Fees are to be collected by the Tribal Lease Compliance Officer and deposited in the Tribal permits and business license account.
- B. When any power or authority is given by any provision of this Ordinance to any person or institution, it may be exercised by a deputy, inspector or agent duly authorized by such person. Persons Charged with enforcing this Ordinance must be commissioned by the Tribe. Persons duly commissioned by the Tribe shall have the power to enforce any provision of this Ordinance.
- C. Application for permits, payment of fees, and compliance with inspection which may be required by the State of Arizona for collection and/or transport of native plants protected under State of Arizona statutes shall be the responsibility of the individual regulations regarding collection of native plants protected in this ordinance does not imply compliance with applicable State of Arizona regulations.

Application for permits, payment of fees, and compliance with the Federal Endangered Species Act which lists protected species and critical habitats, some of which may occur on the trust lands of the Reservation, shall be the responsibility of the permittee. Compliance with applicable Gila River Indian Community regulations regarding collection of native plants protected in this Ordinance does not imply compliance with applicable Federal regulations.

ARTICLE II. IMPLEMENTATION

SECTION 1 - ALLOTTED LANDS; PROCEDURES FOR SALVAGE OF PLANTS, DISPOSAL OF

A. No person or institution shall dig up, destroy, mutilate, or remove plants from allotted land without obtaining written permission from the allottee and a permit authorized by the Natural Resources Standing Committee and tags issued by the Tribal Ordinance Officer.

- B. Nothing in this Ordinance pertaining to collection of plants on Tribal land shall be construed to prevent an allottee or his agent from taking the following actions on his allotment: clearing land, or clearing or removing protected native plants from a canal, lateral, ditch, survey line, building site, road or other right-of-way, unless such protected native plants are to be transported from the allotted land and/or offered for sale, or if the allotted land is to be developed for any purpose other than residential use by the allottee or agricultural use.
 - Tribal entities, lessees of Tribal land and non-Indian lessees of allotted land are specifically excluded from this exemption, and must follow the permit procedures prescribed in this Ordinance when clearing land. or clearing or removing protected native plants from a canal, lateral, ditch, survey line, building site, road, or other right-of-way.
 - 2. If plants are to be transported from allotted land or offered for sale, the person or institution who transports or purchases the plants from the allottee must have a valid permit and tags obtained through the procedures specified in this Ordinance. The permit fee and tag fees may be waived at the discretion of the Natural Resources Standing Committee. An allottee moving protected plants from one of his properties to another must obtain a valid permit and tags, transportation permit and certificate of inspection, but is exempt from fees for the permits, tags, and certificate of inspection provided no protected plants are to be offered for sale.
- C. Protected native plants may be moved from their natural growing sites to remove them from the path of construction projects which cannot be designed to allow them to remain in place. Protected plants may also be moved to allow necessary pre-construction activities including survey lines, access roads and other rights-of-way. Permits and tags must be obtained as prescribed by this Ordinance. Plants which must be moved out of the path of construction or construction-related activities shall be salvaged to the greatest extent feasible and relocated to other growing sites on Tribal land, or salvaged and used to revegetate disturbed areas after construction is completed, insofar as such salvage and relocation or reuse is feasible.

If salvage and relocation or reuse on Tribal land is not feasible, the Governor or Lieutenant Governor, or his designee, is authorized to arrange for disposal of protected plants by either of the following methods:

1. allow Community members or Community groups to remove such plants as they may use beneficially to beautify their homes, buildings or recreation areas, provided the plants are not to be transported from the Reservation or offered for sale;

2. allow non-profit institutions to remove plants that can be used for educational or scientific purposes, provided the plants will not be offered for sale.

If relocation to Tribal land, reuse, or beneficial use by Community members or non-profit organizations is not feasible, the Governor, Lieutenant Governor, or his designee is authorized to dispose of protected plants growing in the path of construction by accepting bids for sale of the protected plants to dealers in native plants, who shall remove only those plants specified by the Governor, Lieutenant Governor, or his designee. Plants to be salvaged or sold must be collected under the direction and supervision of the Tribal Lease Compliance Officer.

In the event of an emergency which requires removal of protected plants from their growing sites, the Governor, Lieutenant Governor, or his designee may authorize disposal of the protected plants as appropriate to the circumstances.

SECTION 2 - DISPOSAL OF CONFISCATED PLANTS

Confiscated plants become the property of the Gila River Indian Community, and may be disposed of as appropriate to circumstances by the Governor, Lieutenant Governor or his designee.

SECTION 3 - USE OF PLANTS BY COMMUNITY MEMBERS; COLLECTING PLANTS OR PARTS FOR PROPAGATION; CUTTING NATIVE PLANTS FOR FUELWOOD

- A. Community members may collect seeds, plant parts and fruit for personal use if such collection does not cause the death of the plant, or so severely deplete its reproductive parts that it cannot generate replacement plants necessary to the perpetuation of its species, with the exception of wood cut for fuelwood.
- B. If a Community member wishes to collect protected plant parts, seeds, or fruit for resale to non-members in any form, except woven baskets and other such traditional artifacts, such collection will require authorization by the Natural Resources Standing Committee, which shall specify areas of the Reservation to which such collection shall be confined, and shall set limits to the quantity of seeds, plant parts or fruit which can be collected.
- The Natural Resources Standing Committee may issue a permit to a person or scientific or educational institution to take seeds, fruit or plant parts to be used for plant propagation, provided that collection of propagation materials will not cause the death of the plant, or so severely deplete its reproductive parts that it cannot generate replacement plants necessary to the perpetuation of its species.

SECTION 4 - SHIPMENT OF PLANTS; EXHIBITION OF TRANSPORTATION PERMIT; CERTIFICATE OF INSPECTION

No person or common carrier shall transport a plant, or any part thereof, belonging to the protected group, nor receive or possess a protected native plant for transportation within or without the Gila River Indian Reservation unless the person offering the plant for shipment exhibits to the person or common carrier a valid written permit for the transportation of the plant or parts thereof, and has securely and properly attached thereto a valid plant tag. If the plant or plant parts are for transport to places outside the Reservation boundaries, the carrier shall be required to bear a certificate of inspection issued by the Tribal Lease Compliance Officer.

ARTICLE III. ENFORCEMENT

SECTION 1 - ENFORCEMENT; ARRESTS WITHOUT WARRANT; CONFISCATION OF PLANTS

- A. Law enforcement officers duly authorized to enforce the laws and regulations of the Community may in the enforcement of this Ordinance make arrests without warrant for a violation of this Ordinance which he may witness, and may confiscate plants or parts thereof belonging to the protected group when unlawfully taken, transported, possessed, sold, or otherwise in violation of this Ordinance, and may confiscate archaeological and other specimens or objects if unlawfully excavated or collected. Possession of such archaeological or other artifacts is a separate offense punishable under GR-Ol-82, Archaeological License Ordinance.
- B. Duly authorized law enforcement officers are empowered and directed to enter in or upon any premises or other place, train, vehicle, or other means of transportation within or entering the Reservation which is suspected of containing or having present therein or thereon protected native plants in violation, or suspected to be in violation, of this Ordinance.
- C. The Arizona Commission of Agriculture and Horticulture may, upon request of Community officials and upon being duly empowered, assist in enforcing any provision in this article.

SECTION 2 - VIOLATIONS; CONFISCATION OF VEHICLES AND EQUIPMENT

A. A person subject to the criminal jurisdiction of the Community violating any provision of this Ordinance is guilty of a public offense punishable by a fine of not less than \$50.00, nor more than \$500 and/or six months imprisonment. Each violation constitutes a separate offense; each and every protected plant found in the illegal possession of a person or persons violating any provision of this Ordinance shall be counted as a separate punishable offense.

Persons who are not Community members who violate any provision of this Ordinance are also subject to prosecution under GR-03-81, Civil Trespass. Unauthorized use of Community member status to benefit non-Community members, or collusion by Community members to violate or assist in violation of any provision of this Ordinance will be punishable by a maximum fine of \$500 and/or six months imprisonment, and forfeiture of privileges to collect native plants as a Community member.

- B. Vehicles and equipment used to commit acts which violate any provision of this Ordinance are subject to confiscation, impoundment, and forfeiture pending appearance to answer a complaint or citation, and may be used to satisfy fines or penalties which may be assessed by the Community Court.
- С. Upon conviction of a violation of this article, all permits issued to the person convicted shall be revoked and the permittee shall become ineligible for future permits and prohibited from acting as an agent for any other permittee. Any member of the Community who is convicted of falsely applying for a permit to enable a non-Community person to collect plants protected in this Ordinance without paying fees applicable to non-members shall be subject to penalties as applicable, and shall forfeit the right to collect protected native plants, and shall be ineligible to apply for a permit to collect native plants. Moreover, any Community member found guilty of acting as an accomplice to any person found guilty of violating the provisions of this Ordinance shall be subject to the maximum applicable penalties, and shall forfeit the right to collect protected native plants and shall be ineligible to apply for a permit to collect protected native plants.



TRIBAL WOOD PERMIT (Non-Resident Tribal Members)

LAND USE PLANNING & ZONING P.O. BOX 398 SACATON, AZ 85247 562-3301

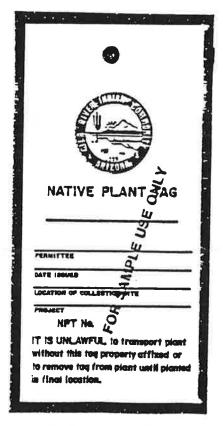
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Application For Removal and Transport of Native Plants

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Native Plant Removal & Transport Permit



Native Plant Tag