

WARM SPRINGS TRIBAL CODE
CHAPTER 350
HUNTING AND TRAPPING CODE

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CHAPTER 350

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350.010 General. Since time immemorial the various tribes and bands of Indians now confederated as the Confederated Tribes of the Warm Springs Reservation of Oregon held Indian title to and right of occupancy based upon aboriginal possession of certain lands along the Columbia River and its tributaries. Since time immemorial these areas have been historic usual and accustomed hunting places of the members of the said tribes and bands and of the members of the Confederated Tribes of the Warm Springs Reservation since its organization pursuant to the provisions of § 16 of the Act of June 18, 1934 (48 Stat 984) as amended by the Act of June 15, 1935 (49 Stat 378). The Tribes and Bands of Middle Oregon executed a treaty with the United States at Wasco, in Oregon Territory, on June 25, 1855, which Treaty set apart the Warm Springs Reservation for our people's use forever, and reserved the exclusive right to hunt on the reservation and guaranteed to our people the right to hunt on unclaimed land in common with the citizens of the United States.

These hunting rights, and the wildlife resources on which they depend, constitute an invaluable and irreplaceable asset to the members of the Confederated Tribes. They form an important cultural, historical and economic asset of the Tribe and its members. The Tribal Council, in order to protect and preserve the tribal property for the benefit of tribal members both in the present and future generations and in the exercise of its sovereign powers, finds it necessary to regulate and control all hunting on the Warm Springs Reservation of Oregon and the exercise of treaty-reserved hunting rights by tribal members off the reservation.

350.100 Definitions. For purposes of this chapter, the following terms shall have the following definitions:

- (1) "Department" means the Natural Resources Department of the Confederated Tribes of the Warm Springs Reservation of Oregon.
- (2) "Family" means all persons related by blood or marriage plus any foster children not related by blood or marriage living together in a single household.
- (3) "Fish and Wildlife Committee" means the Tribal Fish & Wildlife Committee appointed by the Tribal Council.
- (4) "Member" means a duly enrolled member of the Confederated Tribes of the Warm Springs Reservation of Oregon.
- (5) "Nonmember" means any person who is not a duly enrolled member of the Confederated Tribes of the Warm Springs Reservation of Oregon.

- (6) "Off-Reservation" means all areas outside the exterior boundaries of the Warm Springs Reservation wherein the Tribes have treaty reserved hunting and fishing rights.
- (7) "Police" means duly authorized officers of the Confederated Tribes of the Warm Springs Reservation of Oregon and the United States of America.
- (8) "Reservation" means all areas within the exterior boundaries of the Warm Springs Reservation of Oregon.
- (9) "Tribal Council" means the duly elected Tribal Council of Tribe.
- (10) "Tribe" means the Confederated Tribes of the Warm Springs Reservation of Oregon.
- (11) "Wildlife Management Units" means those wildlife management units established by this ordinance for the purpose of wildlife management protection as shown on the attached Exhibit "A" consisting of the following units:
 - (a) Meadows.
 - (b) High Lakes.
 - (c) Jefferson.
 - (d) Metolius.
 - (e) Sawmill.
 - (f) Log Springs.
 - (g) Schoolie Flat.
 - (h) Seekseequa.
 - (i) Kah-nee-ta.
 - (j) Mutton Mountains.
 - (k) McQuinn Strip.

350.200 Hunting – On-Reservation. The Treaty of June 25, 1855 reserved to the Tribes exclusive hunting rights on the reservation and it shall be unlawful for any person to hunt within the reservation in violation of this Code.

350.210 On-Reservation Hunting by Members.

- (1) Ceremonial. Ceremonial hunting permits for funeral purposes will be issued by the Natural Resources Department or, if application is made at a time other than during regular business hours, by the tribal police. Application for a ceremonial hunting permit must be made by one or more adults of the family conducting the funeral on a form to be provided by the Natural Resources Department. Such form shall contain the following information:
- (a) Name of deceased;
 - (b) Time and location of funeral dinner;
 - (c) Person or persons who will do the ceremonial hunting;
 - (d) Number of deer and/or elk required, which shall not exceed three (3) deer or one (1) elk unless more are specifically authorized by the Tribal Council.

A ceremonial hunting permit shall be marked with the time and date of issuance and will be valid for 72 hours. Within five days after the funeral an adult member of the family conducting the ceremonial hunt shall file with the Natural Resources Department on a form provided by the Department the sex and size of any deer and/or elk taken and the area from which they were taken.

- (2) Big Game:
- (a) Bear, Deer and Elk: Each year the Tribal Council shall review the status of each of these species on the reservation and shall establish appropriate seasons and bag limits.
 - (b) Tagging of Deer, Elk and Bear: Any tribal member hunting deer, elk, or bear must have on his person the appropriate game tag. Tags may be obtained free of charge from the office of the Natural Resources Department.

When the tribal member kills an animal for which the tag is issued he shall immediately attach the tag in plain sight, securely to the animal. The tag shall be kept attached to such carcass or parts thereof so long as the same are preserved. In addition, any tribal member killing an animal for which a report form is required by the Department shall complete such report and return it to the Department within five days of killing such animal. Failure to complete the report shall be grounds for denying any further tags to such individual until the report is properly completed and filed.

- (c) Weapons for Big Game Animals:

- (i) Rifles – It is unlawful for any persons to use rifles with a caliber designation of less than .23 inch which do not develop at least 900 foot–pounds of energy at 100 yards to hunt deer or bear and to use rifles with a caliber designation of less than .24 inches and developing less than 1220 foot–pounds of energy for the taking of other big game animals.
 - (ii) Pistols – It is unlawful for any persons to use pistols or revolvers to hunt or kill big game animals.
 - (iii) Shotguns – It is unlawful for any persons to use shotguns to hunt or kill big game animals except that shotguns loaded with rifled slugs may be used to hunt deer.
 - (iv) Archery – It is unlawful for any persons to hunt or kill elk with any long or compound bow having less than 50 pounds pull within the normal draw and arrow length of the hunter or to hunt or kill any other big game animals with any long or compound bow having less than 40 pounds pull within the normal draw and arrow length of the hunter or to use other than a sharp barbless arrowhead not less than 7/8–inch wide.
- (d) Other Big Game Species: There shall be closed season on antelope, cougar, mountain sheep and mountain goats until such time as the Tribal Council determines that any such species has increased in sufficient numbers to warrant an open season.
- (3) Upland Birds:
- (a) Chukar partridge, grouse, Hungarian partridge, pheasant, quail and turkeys may only be hunted and killed during seasons and within bag limits as may be established by the Tribal Council each year.
- (4) Migratory Waterfowl and Other Migratory Birds:
- (a) Waterfowl and other migratory birds are classified in the Migratory Bird Treaty Act of 1918 between the United States and Great Britain (for Canada). The Federal Government regulates the taking of migratory waterfowl and other migratory birds which includes ducks, geese, brant, coots, jacksnipe, pigeons, and doves. Persons hunting or killing these birds must use the Federal Government regulations as a guide for their take.
 - (b) Weapons for Migratory Game Birds: Migratory game birds may be hunted only with a shotgun.
- (5) Predatory Animals:

- (a) "Predatory Animals" includes birds and mammals, which are or may be destructive to agricultural crops, products and activities, but excluding game birds, migratory waterfowl and big game animals.
 - (b) Predatory Animals may be taken by tribal members without restriction as to season and bag limit.
- (6) Hunting or Trapping of Fur Bearing Animals:
- (a) Species: For the purpose of this section, badger, beaver, bobcat, coyote, fisher, marten, mink, muskrat, otter, rabbit, raccoon, skunk, weasel and wolverine shall be considered and are defined to be "fur bearing animals."
 - (b) Open Season:
 - (i) Open seasons for trapping of badger, beaver, bobcat, marten, mink, muskrat, raccoon, skunk and weasel shall be from November 1 to March 1.
 - (ii) Open season for trapping of coyote and rabbit shall be the entire year.
 - (c) Closed Season: There shall be closed season during the entire year for otter, fisher and wolverine.
 - (d) Marking of Traps: All traps, whether set for fur-bearing or other wild animals that may be trapped lawfully, shall be marked with a brand registered with the Tribal Natural Resources Department.
- (7) Non-Game Birds:
- (a) Protection: No tribal member shall hunt, kill or take or have in his possession, any wildbird, living or dead, other than game birds or unprotected non-game birds. The following wild non-game birds are unprotected: Common starling and sparrow. There is no closed season on any unprotected wild non-game bird.
- The taking, shooting, harassment, possession or transportation of the bald eagle or the golden eagle, or their parts, nests, or eggs is prohibited except as permitted by Federal Regulations.
- (8) Shooting Hours: It is unlawful to hunt, pursue or take any wild animals from one-half hour after sunset to one-half hour before sunrise.
 - (9) Hunting on Another's Cultivated or Enclosed Land: No person shall hunt upon the cultivated or enclosed land of another without first obtaining written permission from the owner or lessee thereof, or the agent of such owner or lessee.

- (10)** Hunting from Power-Propelled Vehicles; Using Lights Thereon: No person shall pursue, shoot at, or kill any wild animals or wild birds from any motor vehicle, car, truck, motorcycle, snowmobile, aircraft, boat or other power-propelled vehicle or by aid of any lights carried thereon or attached thereto.
- (11)** Relating to Snowmobile:
- (a)** No person shall operate or ride a snowmobile with a firearm or with a bow in his possession.
 - (b)** No person shall operate a snowmobile in a manner so as to harass, chase or annoy any wild animals or birds.
- (12)** Transportation Off-Reservation: All big game animals or portions thereof, transported off the reservation must be tagged with a metal seal provided by the Department prior to transportation off the reservation.
- (13)** Sale or Trade of Game Animals and Wild Birds:
- (a)** No person shall at any time hunt, catch or have in possession any game animal, game bird or non-game bird except fur bearing animals, for the purpose of obtaining the flesh, in whole or in part, of such animal or bird, for the purpose of sale.
 - (b)** It is unlawful at any time for any person to buy, sell, offer for sale, have in possession for sale or transport or carry for the purpose of sale, trade, or exchange, the flesh in whole or in parts of any such game animal or wild bird.
- (14)** Waste of Game: No person shall at any time capture or destroy any game animal, except fur-bearing animals, and detach or remove from the carcass only the head, hide, antlers, horns, tusks or any or all of these parts. No person shall leave, through carelessness, neglect or otherwise, any game bird or game animal or an edible portion thereof to needlessly go to waste.
- (15)** Release of Birds or Animals: It is unlawful for any person to release within the reservation any species of birds or animals brought from off-reservation, raised in captivity or in domestic state on this reservation, without first obtaining a permit from the Natural Resources Department.
- (16)** Removal of Animals and Birds Damaging Property: The Natural Resources Department is authorized to kill or capture any wild animals or birds of the reservation doing damage to reservation property. Any animals or birds killed or captured under this Section are the property of the Confederated Tribes and shall be disposed of in such manner as the Tribal Council directs.

- (17) Possession: It is unlawful to receive or have in possession any wild animal or wild bird, or part thereof, taken in violation of this Ordinance or other tribal laws or regulations.
- (18) Authority of Tribal Council to Set Special Hunts and/or Designate Special Use Areas: The Tribal Council may, by Special Resolution, authorize special hunting permits for ceremonial or other purposes, close areas to hunting or designate certain areas of the reservation for Special Use and shall immediately notify the Department and the Warm Springs Tribal Police of such actions.
- (19) Use of Dogs Prohibited: No person shall make use of a dog in hunting, pursuing or killing any elk, deer, antelope, mountain sheep, mountain goats or turkey.
- (20) Hunting Within The McQuinn Strip: Pursuant to the McQuinn Strip Act, Public Law 92-427, enacted September 21, 1972, the Confederated Tribes of the Warm Springs Reservation of Oregon has entered into a cooperative agreement with the Oregon State Game Commission (now the Oregon Fish and Wildlife Commission), dated May 30, 1972, and extending to September 21, 1982, and providing the Oregon Fish and Wildlife Commission with the option to extend the term of the agreement for an additional ten-year period. During the term of said agreement or any extension thereof, tribal member fishing and hunting in the McQuinn Strip shall be in conformance with Oregon State fishing and hunting regulations, except that tribal members will not be required to obtain state fishing and hunting licenses, permits or tags.

350.220 On-Reservation Hunting – Non-Members: No nonmember shall pursue, shoot at, or kill any wild animals or wild birds at any time within the Warm Springs Reservation except within the McQuinn Strip pursuant to the terms of a cooperative agreement between the Tribes and the Oregon State Game Commission (now the Oregon Fish and Wildlife Commission), dated May 30, 1973, and extending to September 21, 1982, and providing the Oregon Fish and Wildlife Commission with the option to extend the term of the agreement for an additional ten-year period. During the term of said agreement or any extension thereof, non-tribal members may hunt in the McQuinn Strip in conformance with Oregon State hunting regulations.

350.500 Hunting Off-Reservation: By the Treaty of June 25, 1855, Tribes reserved the right to hunt on open and unclaimed lands within the ceded area off the reservation. It shall be unlawful for any member to hunt off the reservation in violation of this Code.

350.510 Off-Reservation Hunting by Members.

- (1) No member of the Tribes shall exercise treaty hunting rights off-reservation unless he has in his possession an identification card issued by the Tribal Registrar showing him to be a duly enrolled member of the Confederated Tribes of the Warm Springs Reservation of Oregon. Such card shall be carried on the person of the member at all times and upon demand shall be shown to any federal, state or tribal officer. Any lending or unauthorized alteration or use of identification cards is prohibited.

- (2) Hunting shall be permitted during open seasons established by the Tribal Council or established in accordance with laws and regulations of the State of Oregon applicable to treaty Indians, as may be modified by the action of the Tribal Council.
- (3) Bag limit shall be as established by the Tribal Council or established in accordance with the laws and regulations of the State of Oregon applicable to treaty Indians, as may be modified by the action of the Tribal Council.
- (4) All persons hunting species for which a "tag" is required by Oregon State law shall have in their possession a "tag" issued by the State of Oregon or a "tag" issued by the Natural Resources Department.

350.520 Off-Reservation Ceremonial Hunting.¹

- (1) Off-reservation ceremonial hunting shall take place only during tribally authorized ceremonial hunts and shall be subject to such regulations as are adopted by the Fish and Wildlife Committee or the Tribal Council.
- (2) Tribal members hunting off reservation for ceremonial purposes must have in their possession at all times both a valid tribal identification card showing the hunter to be an enrolled tribal member and a specially designated tribal ceremonial hunting tag for the species of game for which the ceremonial hunt is conducted issued by the Oregon Department of Fish and Wildlife or the Warm Springs Natural Resources Department.
- (3) Tribal members participating in tribally authorized off-reservation ceremonial hunts shall abide by all laws and regulations established by the State of Oregon, as may be modified by the Tribal Council, with respect to geographical area of the hunt, the sex and age of the animals that may be taken, the number of animals that may be taken, and other regulations applicable to each particular tribally authorized ceremonial hunt.
- (4) No tribal member shall engage in off-reservation hunting for ceremonial purposes unless authorized by the Fish and Wildlife Committee or the Tribal Council.
- (5) It shall be unlawful for any tribal member participating in a tribally authorized ceremonial hunt to sell, barter, give away or keep game, or any part thereof, taken during a duly authorized off-reservation ceremonial hunt.
- (6) Unlawful activity in connection with off-reservation ceremonial hunting shall be punishable in accordance with the penalties set out in WSTC 350.700(1).
- (7) The Natural Resources Department shall report the results of tribally authorized off-reservation ceremonial hunts to the Oregon Department of Fish and Wildlife.

¹ WSTC 350.520 was added to the Warm Springs Tribal Code by Resolution No. 7330, adopted December 17, 1986.

- (8) Nothing in this section WSTC 350.520 shall be construed as limiting, modifying or altering the treaty-reserved off-reservation hunting rights of the Tribe or its members.

350.600 Prior Ordinances Repealed. Ordinance No. 50 adopted October 19, 1971 and all other prior ordinances governing hunting on the reservation and off the reservation by tribal members are hereby repealed.

350.700 Penalties.

- (1) Persons Subject to Jurisdiction of Warm Springs Tribal Court:

- (a) Tribal members and all other Indians subject to the criminal jurisdiction of the Warm Springs Tribal Court found guilty of violation of any of the provisions of this Chapter or regulations promulgated to carry out the provisions of this Chapter shall, upon a first conviction, be subject to a fine of not more than \$150.00 or by imprisonment for not more than twenty (20) days, or both such fine and imprisonment; for a second conviction such person shall be punished by a fine of not more than \$250.00 or by imprisonment for not more than sixty (60) days or both fine and imprisonment. Upon the third or subsequent conviction such person shall be punished by a fine of not more than \$500.00 or by imprisonment for not more than six (6) months or by both fine and imprisonment.
- (b) The Fish and Wildlife Committee shall have authority to issue a citation to any member to appear before the Committee and show cause why such member should not have his identification card suspended, in which event such member shall have no right to claim treaty rights and shall be subject to the application of State law. In the event that the member shall fail to appear before the Committee at the time and place set for such show cause hearing, or shall fail to satisfy the Committee why such action should not be taken, such member's identification card may be suspended for such period as the Committee deems appropriate, not exceeding a period of six (6) months.

- (2) Persons Not Subject to Criminal Jurisdiction of the Warm Springs Tribal Court:

- (a) Persons other than tribal members or other Indians subject to the criminal jurisdiction of the Warm Springs Tribal Court, shall be punishable pursuant to the provisions of 18 USC § 1165, which provides as follows:

"Whoever, without lawful authority or permission, willfully and knowingly goes upon any land that belongs to any Indian or Indian Tribe, Band or group and either are held by the United States in trust or are subject to a restriction against alienation imposed by the United States or upon any lands of the United States that are reserved for Indian use,

for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, shall be fined not more than \$250 or imprisoned not more than 90 days or both and all game, fish and peltries in his possession shall be forfeited."

- (b) Persons other than tribal members or other Indians subject to the jurisdiction of the Warm Springs Tribal Court, shall also be punishable pursuant to applicable State of Oregon criminal trespass laws and/or laws prohibiting hunting and fishing on the enclosed lands of another.
- (c) Persons other than tribal members or other Indians subject to the criminal jurisdiction of the Warm Springs Tribal Court who violate the provisions of this Chapter may be subjected to a civil penalty in Tribal Court for a civil infraction. Such civil penalty shall not exceed the sum of \$500.00 for each such infraction. Equipment used in connection with such infraction including but not limited to firearms and motor vehicles, may be seized and held as security for such person's appearance before the Tribal Court and may be subject to sale or other disposition by the Tribe in the event that such person fails to pay the amount of any civil penalty imposed by the Court. The Tribal Council hereby specifically finds that such civil penalties are reasonably necessary and are related to the expenses of governmental administration necessary in managing, protecting, and developing the wildlife resources on the reservation. It is the legislative intent of the Tribal Council that such violations by non-members be considered civil in nature rather than criminal.