

**LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA
TRIBAL CODE
CHAPTER 26
OFF-RESERVATION CONSERVATION CODE**

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HISTORY NOTE:

Current Ordinance.

Resolution No. 371(88). Chapters I, II, III, IV and IX approved and placed for referendum October 10, 1988, Enacted by referendum October 13, 1988, effective immediately.

Amendments.

Amendments to a large number of sections, necessitated by the federal court ruling of March 3, 1989, and subsequent hearing March 28, 1989, were adopted April 10, 1989, Resolution No. 124(89).

Chapter VI: Deer Hunting, was adopted June 12, 1989, Resolutions No. 188(89), enacted by referendum July 6, 1989. It has not yet taken effect and is not included in the text at this time because it is the subject of a pending federal court decision.

Chapter V (Wild Rice) Adopted by Stipulation, Order signed by Judge Barbara Crabb November 1, 1989.

Chapter VI (Deer Hunting) enacted, Order signed by Judge Barbara Crabb May 9, 1990.

Chapters VII (Bear), VIII (Small Game), X (Migratory Birds), XI (Timber), and XII (Miscellaneous Plants) were all rejected by referendum vote November 30, 1989.

Chapter IX amended April 9, 1990, Resolution 96(90).

Chapters VII (Bear Harvesting) and VIII (Small Game Harvesting) were adopted August 27, 1990, Resolution No. 236(90), enacted by referendum August 30, 1990.

Chapter III Disabled Hunters Permits, amended, September 13, 1993, Resolution No. 295(93).

Part II Off-Reservation National Forest Gathering Ordinance to due to expire August 31, 1997. Enacted, September 26-27, 1996, Resolution 385(96).

Part II Off-Reservation National Forest Gathering Code of the Lac du Flambeau Band of Lake Superior Chippewa Indians. Enacted August 24, 1998. Resolution 420(98). Appendix B (Tribal Self-Regulation Agreement) [Memorandum of Understanding] Regarding the Recognition and Implementation of Tribal Ceded Territory Rights Guaranteed by the Treaties of 1836, 1837 and 1842 on National Forest Lands, August 24, 1998.

Chapter 26.606(1) amended November 8, 1999, Resolution No. 611(99) three-day deer registration deadline.

Chapter 26.605(2)(b) amended November 15, 2004, Resolution No. 311(04) issue no more than four (4) carcass tags at one time.

Part III, Off Reservation Conservation Code for the 1837 Minnesota Ceded Territory enacted, subject of the membership voting by referendum; April 7, 1997, Resolution No. 130(97). Certification of election results yes-62 no-34, dated 4/18/97.

Chapter 26.607(1) and Chapter 26.607(2)(a) temporarily changes the Deer Season regulations, Resolution No. 276(07).

Part IV, Off Reservation Conservation Code for the 1842 Michigan Ceded Territory. Enacted October 8, 2007. Resolution 211(07).

Regulations.

Gillnet regulations pursuant to Sec. 26.908(2) adopted June 12, 1989, Resolution No. 189(89); June 19, 1989, Resolution No. 206(89). Gillnetting banned October 6, 1989, Resolution No 353A(89).

Prior Ordinances.

There have been numerous interim ordinances since the 1983 Voigt decision, including the following:

1983 Deer hunting: Adopted November 7, 1983, Resolution No. 302(83); approved by referendum November 8, 1983. Adopted pursuant to referendum authority November 14, 1983, Resolution No. 316(83). Amended December 12, 1983, Resolution No. 358(83).

1984 Ice fishing; Approved January 30, 1984, Resolution No. 54(84); enacted by referendum February 2, 1984.

1984 Gillnet ban: Adopted June 18, 1984, Resolution No. 206(84).

1984 Open water fishing: Adopted by referendum July 12, 1984.

1984 Deer hunting: Adopted by referendum vote September 12, 1984.

1984-1985 Trapping: Adopted by referendum November 15, 1984.

1984-1985 Ice fishing: Adopted by referendum December 19, 1984.

1984-1985 Small game: Adopted by referendum December 19, 1984.

1985 Spring spearing: Adopted April 15, 1985, Resolution No. 111(85), enacted by referendum April 18, 1985.

1985 Ricing: Adopted August 19, 1985, Resolution No. 294(85), enacted by referendum August 29, 1985.

1985 Migratory birds: Adopted August 19, 1985, Resolution No. 294(85), enacted by referendum August 29, 1985.

1985 Deer hunting: Adopted September 16, 1985, Resolution No. 328(85), enacted by referendum September 19, 1985. Amended October 7, 1985, Resolution No. 359(85); December 16, 1985, Resolution No. 466(85).

1985 Small game hunting: Adopted September 30, 1985, Resolution No. 354(85), enacted by referendum October 9, 1985.

1985-1986 Trapping: Adopted October 21, 1985, Resolution No. 321(85), enacted by referendum October 30, 1985.

1985-1986 Ice fishing: Adopted October 21, 1985, Resolution No. 321(85), enacted by referendum October 30, 1985.

Authority for Tribal Council to approve interim agreements in substantial conformity with previous agreements put out for referendum October 21, 1985, Resolution No. 321(85), approved by referendum October 30, 1985.

1986 Open water spring fishing: Adopted April 7, 1986, Resolution No. 114(86).

1986 Hook and line fishing: Adopted May 19, 1986, Resolution No. 180(86), enacted by referendum May 30, 1986.

1986 Ricing: Adopted August 11, 1986, Resolution No. 290(86).

1986 Deer hunting: Adopted August 25, 1986, Resolution No. 323(86), enacted by referendum September 4, 1986.

1986 Bear hunting: Adopted August 25, 1986, Resolution No. 323(86), enacted by referendum September 4, 1986.

1986 Small game: Adopted September 8, 1986, Resolution No. 328(86).

1986 Trapping: Adopted November 3, 1986, Resolution No. 388(86), enacted by referendum November 13, 1986.

1986-1987 Ice fishing: Adopted November 24, 1986, Resolution No. 426(86), enacted by referendum December 4, 1986.

1987 Spring spearing: Adopted March 30, 1987, Resolution No. 89(87), enacted by referendum April 2, 1987.

1987 Ricing: Adopted August 3, 1987, Resolution No. 256(87), enacted by referendum August 14, 1987.

1987 Deer hunting: Adopted September 15, 1987, Resolution No. 295(87), enacted by referendum September 17, 1987.

1987 Bear hunting: Adopted September 21, 1987, Resolution No. 302(87).

1987 Migratory bird hunting: Adopted September 21, 1987, Resolution No. 302(87).

1987 Small game hunting: Adopted September 21, 1987, Resolution No. 302(87).

1987 Trapping: Adopted October 19, 1987, Resolution No. 351(87).

1987-1988 Ice fishing: Approved January 4, 1988, Resolution No. 5(88), enacted by referendum January 7, 1988.

1988 Spring fishing: Adopted April 11, 1988, Resolution No. 115(88). Amended April 18, 1988, Resolution No. 125(88).

1988 Summer and fall open water fishing: Adopted June 13, 1988, Resolution No. 183(88).

Timber Moratorium: Adopted June 20, 1988, Resolution No. 211(88).

1988 Ricing: Adopted August 1, 1988, Resolution No. 260(88).

1988 Deer hunting: Adopted August 31, 1988, Resolution No. 305(88).

1988 Bear hunting: Adopted September 6, 1988, Resolution No. 320(88).

1988 Migratory bird hunting: Adopted September 16, 1988, Resolution No. 339(88).

1988 Small game hunting: Adopted September 16, 1988, Resolution No. 340(88).

1988-1989 Trapping: Adopted November 23, 1988, Resolution No. 395(88), enacted by referendum November 23, 1988.

1988-1989 Ice fishing: Adopted December 12, 1988, Resolution No. 443(88). Ban on sale of fish imposed by referendum December 15, 1988.

1989 Ricing: Adopted August 14, 1989, Resolution No. 269(89).

1989 Deer hunting: Adopted August 28, 1989, Resolution No. 293(89).

1989 Bear hunting: Adopted August 28, 1989, Resolution No. 294(89).

1989-1990 Small game hunting: Adopted October 16, 1989, Resolution No. 357(89).

1989 Migratory bird hunting: Adopted October 16, 1989, Resolution No. 358(89).

1996-97 Off-Reservation National Forest Gathering Ordinance (Part II): Adopted September 26-27, 1996.

Cases.

The off-reservation treaty rights litigation is Lac Courte Oreilles Band v. Wisconsin, W.D. Wis. No. 74-C-313. Significant reported decisions having impact on tribal regulations include:

Lac Courte Oreilles Band v. Voigt, 700 F.2d 341 (7th Cir. 1983). Affirms existence of treaty right.

Lac Courte Oreilles Band v. Wisconsin, 653 F. Supp. 1420 (W.D. Wis. 1987).
"Doyle decision" defining the rights.

Lac Courte Oreilles Band v. Wisconsin, 668 F. Supp. 1233 (W.D. Wis. 1987).
Tribal self-regulation preempts stat regulation.

Lac Courte Oreilles Band v. Wisconsin, 686 F. Supp. 226 (W.D. Wis. 1988).
"Moderate living" decision.

TRIBAL CODE

CHAPTER 26:

OFF-RESERVATION CONSERVATION CODE

PART I

CHAPTER I: INTRODUCTION

26.101 Title.

This code shall be known as the Off-Reservation Conservation Code.

26.102 Authority.

This code is enacted pursuant to Article VI, Section 1(x) of the Constitution and By-Laws of the Tribe.

26.103 Purpose.

It is the purpose of this code to:

(1) Provide an orderly system for tribal control and regulation of hunting, fishing and gathering on the off-reservation lands ceded by the Tribe in the Treaty of 1837, 7 Stat. 536, and the Treaty of 1842, 7 Stat. 591; and

(2) Provide a means to promote public health and safety and the conservation and management of fish, wildlife and plant populations in the ceded territory through the regulation of member harvesting activities occurring there consistent with the Natural Resource Management Plans for the Northern Wisconsin Ceded Territories and the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory, as may be amended from time to time, both of which have been ratified by the Tribe and both of which are hereby incorporated by reference as if fully set forth herein.

26.104 Territorial Applicability.

This code shall govern the off-reservation hunting, fishing, and gathering activities of resources subject to the provisions of this code by members within the ceded territory.

26.105 Effective Date.

Except as provided in Section 26.920 (1), this code shall be effective on the date adopted by referendum vote.

26.106 Interpretation.

The provisions of this code:

(1) Shall be interpreted and applied as minimum requirements applicable to the exercise of off-reservation treaty rights subject to this code;

(2) Shall be liberally construed in favor of the Tribe;

(3) Shall be construed consistent with the purposes and provisions of the Natural Resource Management Plans for the Northern Wisconsin Ceded Territories and the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory, the court decisions, orders and stipulations entered in the court case Lac Courte Oreilles Band, et al., v. State of Wisconsin, et al., Case No. 74-C-313-C (United States District Court, Western District of Wisconsin); and

(4) Shall not be deemed a limitation or repeal of any other tribal power or authority.

26.107 Severability and Non-Liability.

If any section, provision or portion of this code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this code shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this code.

26.108 Repeal of Inconsistent Tribal Ordinances.

All codes and resolutions inconsistent with this code are hereby repealed. To the extent that this code imposes greater restrictions than those contained in any other tribal code, the provision of this code shall govern.

26.109 Religious or Ceremonial Use of Natural Resources.

(1) Nothing in this code shall prohibit the use of any resource otherwise subject to the provisions of this code which is harvested, taken or otherwise obtained within the ceded territory for religious or ceremonial purposes in accordance with the

traditions and customs of the Tribe and with the consent of the Tribe's governing body, or its designee.

(2) In reviewing and taking action on any request for religious or ceremonial harvest, the Tribe's governing body, or its designee, shall take into account the biological impact of the harvest and shall ensure compliance with the provisions applicable to ceremonial harvest of the various court decisions, orders and stipulations entered into as part of the court case Lac Courte Oreilles Band, et al., v. State of Wisconsin et al., Case No. 74-C-313-C (United States District Court, Western District of Wisconsin).

(3) No member shall fail to comply with the terms and conditions of a permit issued pursuant to this section.

CHAPTER II: GENERAL DEFINITIONS

26.201 General Definitions.

The following terms, wherever used in this code, shall be construed to apply as follows:

(1) "Carcass" means the dead body of any wild animal to which it refers, and, unless clearly indicated to the contrary by a specific provision of this code in particular circumstances, includes the hide or skin and head.

(2) "Ceded Territory" means all lands and waters located in the State of Wisconsin, except Lake Superior, ceded by the Tribe to the United States of America in the Treaty of 1837, 7 Stat. 536, and the Treaty of 1842, 7 Stat. 591.

(3) "Commission" means the Great Lakes Indian Fish and Wildlife Commission.

(4) "Endangered or Threatened Species" means any wild animal or wild plant which is contained on either the federal (50 CFR sec. 17.11 and 17.12) or the State of Wisconsin (Wis. Adm. Code NR 27.03) endangered and threatened species lists, as may be amended from time to time, or which the Tribe's governing body from time to time may declare as endangered or threatened.

(5) "Fishing" includes taking, capturing, killing, or attempting to take, capture or kill fish of any variety in any manner. When the word "fish" is used as a verb, it shall have the same meaning as the word "fishing" as defined herein.

(6) "Game Fish" includes all varieties of fish except rough fish and minnows; "rough fish" includes chub, dace, suckers, carp, goldfish, redhorse,

freshwater drum, burbot, bowfin, garfish, buffalo fish, lamprey, alewife, smelt, and carpsucker; "minnows" includes suckers, mud minnows, madtom, stonecat, killifish, stickleback, trout-perch, darters, sculpin and all minnow family cyprinids except goldfish and carp.

(7) "Gathering" means to take or acquire or attempt to take or acquire possession of any wild plant or any part thereof.

(8) "Hunt" or "Hunting" includes shooting, shooting at, pursuing, taking, catching or killing any wild animal or animals, except that "hunt" or "hunting" does not include the recovery of any wild animal which has already been lawfully reduced to possession.

(9) "Member" means a member of the Tribe.

(10) "Off-Reservation" means all lands and waters lying outside the exterior boundaries of a Wisconsin Chippewa Tribe's Reservation but lying within the ceded territory as defined in Section 26.201(2) of the this code.

(11) "Possession" means having killed, harvested, or otherwise obtained or acquired any wild animal or wild plant subject to the provisions of this code.

(12) "Protected" when used in reference to any wild animal or wild plant means that the hunting, fishing, trapping or gathering of such animal or plant is expressly prohibited except as authorized or regulated by this code.

(13) "Signatory Tribe" means an Indian tribe which is a signatory to either the Treaty of 1837 or the Treaty of 1842, or such tribe's successor in interest.

(14) "Trapping" includes the taking of, or attempting to take, any wild animal by means of setting or operating any device, mechanism or contraption that is designed, built or made to close upon, hold fast, or otherwise capture a wild animal or animals. When the word "trap" is used as a verb, it shall have the same meaning as the word "trapping" as defined herein.

(15) "Tribe" means the Lac du Flambeau Band of Lake Superior Chippewa Indians.

(16) "Tribal Conservation Department" means the conservation department of the Bad River Band of Lake Superior Chippewa Indians, Lac Courte Oreilles Band of Lake Superior Chippewa Indians, Lac du Flambeau Band of Lake Superior Chippewa Indians, Red Cliff Band of Lake Superior Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, or Sokaogon Chippewa Community of the Mole Lake Band.

(17) "Unprotected" when used in reference to any wild animal or wild plant, means that the hunting, fishing, trapping or gathering of such animal or plant is not expressly prohibited by this code.

(18) "Wild Animal" means any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion.

(19) "Wildlife" means all varieties of wild mammals or birds.

(20) "Wild Plant" means any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem, and includes wild rice, maple sap, ginseng, birch bark and timber.

(21) "Working day" means Monday, Tuesday, Wednesday, Thursday or Friday, unless such a day is a tribal holiday.

CHAPTER III: GENERAL

26.301 Title to Wild Animals and Wild Plants.

(1) The legal title to, and the custody and protection of, all wild plants and wild animals within the ceded territory is vested in the Tribe for the purposes of regulating members' use, disposition and conservation thereof.

(2) The legal title to any such wild plant or wild animal, or carcass or part thereof, taken or reduced to possession in violation of this code remains with the Tribe; and the title to any such wild plant or wild animal, or carcass or part thereof, lawfully acquired, is subject to the condition that upon the violation of this code relating to the possession, use, giving, sale, barter or transportation of such wild plants or wild animal, or carcass or part thereof, by the holder of such title, the same shall revert, as a result of the violation to the Tribe. In either case, any such wild plant or carcass or part thereof, may be seized forthwith, wherever found, by the tribal conservation department or any law enforcement official authorized to enforce the provisions of this code.

26.302 Permits and Identification.

(1) No member shall engage in the exercise of off-reservation treaty rights regulated by this code without a validly issued tribal off-reservation natural resources harvesting permit or such other permit as this code may require validated for the particular type of activity to be engaged in for the particular season in question.

(2) No member shall engage in the exercise of off-reservation treaty rights regulated by this code except while carrying a valid color picture identification card

issued by the Tribe, or other form of identification approved by the Tribe for such activities.

(3) The tribal conservation department is authorized to issue to members permits required by this code. Except as otherwise required by this code, the form of such permits shall be left to the discretion of the tribal conservation department provided such form shall require the name, address and the member's tribal identification number.

(4) The tribal conservation department may issue such harvesting permits to members of any other Lake Superior Chippewa Band, provided such other Band has adopted a code or other regulations essentially in conformance with the provisions of this code for the particular season or activity involved.

(5) No member shall refuse to display his or her identification documents or any other document or permit required by this code to any tribal, state, local or federal law enforcement officer upon request by such officer.

(6) No member to whom any permit has been issued under this code shall, when requested by the tribal conservation department or tribal, state, local or federal law enforcement officer or the Commission's Biological Services Division, fail or refuse to provide harvest reports and data, and such other relevant information, as may be requested.

(7) Permits, carcass tags and registration tags issued or used pursuant to this code in connection with any species for which a harvest quota is established shall be numbered sequentially and shall be indexed by number making information regarding the identity of the person who has been issued a tag or permit promptly accessible.

(8) Lost Tags. Any member who reports loss of a carcass tag or antlerless permit may be issued a substitute tag or permit, provided that any member who reports the loss of three or more tags or permits, or any combination thereof, shall be liable for a forfeiture of not less than \$25.00, which shall be payable upon conviction to the Fish and Game Department.

26.303 Waste of Natural Resources.

No member shall unreasonably waste, injure or destroy, or impair natural resources while engaging in the exercise of off-reservation treaty rights regulated by this code.

26.304 Larceny of Natural Resources.

No member shall, without permission of the owner, molest, disturb, or appropriate any wild plant or wild animal, or the carcass or part thereof, which has been lawfully reduced to possession of another.

26.305 Use of Poison and Explosives; Pole Traps.

(1) No member shall take, capture or kill or attempt to take, capture or kill any wild animal with the aid of dynamite or any other explosive or poisonous or stupefying substances or devices.

(2) No member shall place in any off-reservation waters explosives which might cause the destruction of any wild animal, except when authorized by the tribal conservation department, or have in his or her possession or under his or her control upon any off-reservation waters any dynamite or other explosives or poisonous or stupefying substances or devices for the purpose of taking, catching or killing wild animals.

(3) No member shall use, set, lay or prepare in any off-reservation waters any lime, poison, fish berries, or any other substance deleterious to fish life; or use baits containing poison of any description in any off-reservation forests, fields or other places where such baits might destroy or cause the destruction of wild animals; and the possession of any such poison, poison baits or substance deleterious to wild animals by a member while exercising off-reservation treaty rights regulated by this code is prima facie evidence of a violation of this section.

(4) No member shall take, capture or kill or attempt to take capture or kill any bird by setting or operating any trap or device designed, built or used to capture birds on a pole, post, tree stump or any other elevated perch more than three (3) feet above the ground.

(5) Nothing in this section shall prohibit the tribal conservation department or its designated agents from using explosives or having explosives in its possession for the purpose of removing beaver dams, clearing a channel, or breaking a log or ice jam.

26.306 Throwing Refuse in Waters; Abandoning Automobiles, Boats or Other Vehicles.

No member shall deposit, place or throw into any off-reservation waters, or leave upon the ice, or in such waters any cans, bottles, debris, refuse or other solid waste material; and no member shall abandon any automobile, boat or other vehicle in such waters. Any automobile, boat or other vehicle not removed from such waters within thirty (30) days shall be rebuttably presumed to be abandoned.

26.307 Scientific Investigation.

(1) The tribal conservation department or the Commission's Biological Services Division may conduct investigations of wild animals and wild plants in order to develop scientific information relating to population, distribution, habitat needs, and other biological data in order to advise the Tribe on conservation measures designed to ensure the continued ability of wild animals and wild plants to perpetuate themselves.

(2) The tribal conservation department or the Commission's Biological Services Division may for scientific purposes engage in or authorize others to engage in the harvest of protected wild animals or wild plants by the use of methods, at times or at locations not authorized by this code on such terms and conditions as it deems appropriate.

(3) Nothing in this section shall authorize any person to exceed the biological safe harvest level of any species.

26.308 Seasons.

No member shall engage in the exercise of off-reservation treaty rights regulated by this code, except during the respective seasons established pursuant to this code.

26.309 Possession of Wild Plants or Wild Animals During Closed Season.

No member shall have in his or her possession or under his or her control at any time any wild plant or wild animal, or the carcass or any part thereof, showing that the same has been taken off-reservation during the closed season for such plant or animal.

26.310 Bag Limits; Possession Limits.

No member while off reservation shall have in his or her possession or under his or her control any wild plant or wild animal in excess of the bag or possession limits, or above or below the size limits for any wild animal as established by this code, except that wild plants or wild animals harvested on-reservation, if properly tagged or identified in a manner determined sufficient by the tribal conservation department as having been harvested on-reservation shall not be subject to the bag, possession or size limits established by this code. The possession of or control of wild plants or wild animals not so identified or tagged as part of an on-reservation harvest shall be rebuttably presumed to be part of the applicable off-reservation bag or possession limit.

26.311 Waters Partially on a Reservation.

The provisions of this code shall apply to the off-reservation portions of any waters located partially on the Tribe's reservation.

26.312 Sharing of Permits and Tags.

Except as otherwise provided in this code, no member shall lend, share, give, sell, barter, or trade, or offer to lend, share, give, sell, barter or trade to any person any identification document, permit or tag issued by the Tribe pursuant to this code.

26.313 Harvesting with Another's Permit Prohibited.

Except as otherwise provided in this code, no member shall hunt, fish or trap or gather any wild animal or wild plant while in possession of any permit or tag issued to another.

26.314 Shining Animals.

(1) As used in this code:

(a) "Flashlight" means a battery operated light designed to be carried and held by hand.

(b) "Light" includes flashlights, automobile lights and other lights.

(c) "Shining" means the casting of rays of light on a field, forest, or other area for the purpose of illuminating, locating or attempting to illuminate or locate wild animals.

(2) "Presumption" a person casting the rays of light on a field, forest or other area which is frequented by wild animals is rebuttably presumed to be shining wild animals.

(3) Shining wild animals while hunting or possessing weapons prohibited.

(a) "Prohibition" Except as otherwise provided in sub. (b), no member shall use or possess with intent to use a light for shining wild animals while the member is hunting or in possession of a firearm, bow and arrow or crossbow.

(b) "Exceptions" This subsection shall not apply to:

(i) a member who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot pursuant to the express provisions of this code which allow shining during the open season for the animals hunted;

(ii) a person authorized to enforce the provisions of this code on official business;

(iii) an employee of the Tribe or the Commission on official business; or

(iv) a person authorized by the Tribe or the Commission to conduct a game census.

(4) Shining wild animals after 10:00 P.M. during certain times of the year prohibited.

(a) "Prohibitions" Except as otherwise provided in sub. (b), no member shall use or possess with intent to use a light for shining wild animals between 10:00 p.m. and 7:00 a.m. from September 15 to December 31.

(b) "Exceptions" This subsection shall not apply to:

(i) a member who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot pursuant to the express provisions of this code which allow shining during the open season for the animals hunted;

(ii) a member who possesses a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or other unprotected animals;

(iii) a person authorized to enforce the provisions of this code on official business;

(iv) an employee of the Tribe or the Commission on official business;

(v) a person authorized by the Tribe or the Commission to conduct a game census; or

(vi) if the tribe's governing body specifically permits a member to use or possess a light for shining wild animals during these times.

26.315 Duties on Accidental Shooting.

Any member who, while hunting any wild animal, discharges a firearm or arrow, and thereby injures or kills another person, shall forthwith give his or her name and address to such person if injured and render assistance to him or her as may be necessary and obtain immediate medical or hospital care, and shall immediately thereafter report such injury or death to the proper law enforcement authorities.

26.316 Failure to Report Hunting Accident.

Every member who shall have caused or been involved in an accident in which another person has been injured by gunfire or by arrow while hunting or trapping, or shall have inflicted an injury upon himself or herself with a firearm or arrow while hunting or trapping, shall render or cause to be rendered a report to the tribal conservation department within ten (10) days after such injury.

26.317 Hunter Education Requirements and Restrictions on Hunting by Members Under 16 Years of Age.

(1) Certificate of Accomplishment Required. Except as provided in sub. (2), no member born on or after January 1, 1977 may hunt while possessing a firearm, bow and arrow or crossbow unless the member has been issued a certificate of accomplishment under a tribal hunter education and firearm safety course.

(2) "Exceptions" A member may hunt while possessing a firearm, bow and arrow or crossbow without having been issued a certificate of accomplishment from a tribal hunter education and firearm safety course when:

(a) The member has a certificate, license or other evidence indicating that he or she has completed a hunter safety course offered by another tribe, state or province and the course is substantially similar to the Tribe's hunter safety course; or

(b) The member has successfully completed basic training in the U.S. Armed forces, Reserves or National Guard.

(3) Persons Under 12 Years of Age. No member under 12 years of age may hunt while possessing a firearm, bow and arrow or crossbow.

(4) Persons 12 to 14 Years of Age. No member 12 years of age or older but under 14 years of age may hunt while possessing a firearm, bow and arrow or crossbow unless he or she is accompanied by a parent, guardian or other adult member designated by a parent or guardian.

(5) Persons 14 to 16 Years of Age. No member 14 years of age or older but under 16 years of age may hunt while possessing a firearm, bow and arrow or crossbow unless he or she:

(a) is accompanied by a parent, guardian or other adult member designated by a parent or guardian; or

(b) has been issued a certificate of accomplishment under a tribal hunter education and firearm safety course or a similar certificate issued by another tribe, state or province.

(6) Parental Obligation. No parent, guardian or other member shall authorize or knowingly permit or encourage a child under 16 years of age to violate this section.

26.318 Hunting While Intoxicated.

No member shall hunt with a firearm, bow and arrow or crossbow while under the influence of an intoxicant or controlled substance to a degree that the member is incapable of safely using such weapon, or while a member has a blood alcohol concentration of 0.1% or more by weight of alcohol in the member's blood or 0.1 grams or more of alcohol in 200 liters of that person's breath.

26.319 Resisting Conservation Wardens.

No member shall assault or otherwise resist or obstruct any law enforcement officer authorized to enforce the provisions of this code in the performance of duty.

26.320 False Impersonation of Warden.

No member shall falsely represent himself or herself to be a law enforcement officer authorized to enforce the provisions of this code, or shall assume to act as such an officer, without having been first duly appointed.

26.321 General Restrictions on Hunting.

(1) Hunting in restricted areas. No member shall:

(a) Hunt within 1700 feet of any hospital, school grounds or sanatorium where notice of this prohibition is clearly posted;

(b) While on the lands of another, discharge a firearm within 100 yards of any building devoted to human occupancy situated on and attached to the lands of another without the express permission of the owner or occupant of the building. "Building" as used in this subsection does not

include any house trailer, mobile, home, tent, bus, truck, vehicle or similar portable unit.

(2) Color of clothing. During the middle deer season established pursuant to Section 26.607(3), no member shall hunt any game except waterfowl unless at least 50% of the member's outer clothing above the waist is of a highly visible color commonly referred to as hunter orange, blaze orange, fluorescent orange, flame orange, or fluorescent blaze orange.

(3) Safe use and transportation of firearms and bows.

(a) Definitions. For the purpose of this code, the following terms shall be construed to apply as follows:

(i) "encased" means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, strapped, buckled, tied or otherwise fastened with no part of the firearm exposed.

(ii) "highway" means all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the state, county or municipal parks and in state forests which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of any elementary or high school supported by public taxation and institutions under the jurisdiction of a county board of supervisors, but does not include private roads or driveways as defined below.

(iii) "motorboat" means any boat equipped with propulsion machinery, whether or not the machinery is the principal source of propulsion and shall be distinguished from a "Non-motorized boat" which means a boat that is not a motorboat but that is designed and constructed to be used as a boat for transportation of a person or persons on water. The term, "non-motorized boat" includes, but is not limited to any canoe, sailboat, inflatable boat or similar device, row boat, raft and dinghy which is not a motorboat.

(iv) "private road or driveway" is every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner and every road or driveway upon the grounds of public institutions other than elementary

and high schools supported by public taxation and institutions under the jurisdiction of a county board of supervisors.

(v) "roadway" means that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the berm or shoulder. In a divided highway the term "roadway" refers to each roadway separately but not to all such roadways collectively.

(vi) "unloaded" means having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.

(vii) "vehicle" means every device in, upon or by which any person or property is or may be drawn upon a highway, except railroad trains, and includes a snowmobile as defined below.

(viii) "snowmobile" means any engine driven vehicle of a type which utilizes sled type runners, or skis, or an endless belt tread or any combination of these or similar means of contact with the surface upon which it is operated, but does not include such vehicles which are either manually propelled or driven by a motor of 4 horsepower or less and operated only on private property.

(b) Prohibitions; motorboats and vehicles; highways and roadways.

(i) except as provided in sub. (c), no member shall place, possess, or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or enclosed in a carrying case;

(ii) except as provided in sub. (c), no member shall place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded and encased or unless the bow or crossbow is unstrung or is enclosed in a carrying case;

(iii) except as provided in sub. (c), no member shall load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle; or

(iv) except as provided in sub. (c), no member shall discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within 50 feet of the center of a roadway.

(v) except as provided in sub. (c), no member shall hunt while possessing a loaded firearm or strung bow or crossbow within 50 feet of roadway's center.

(c) Safe Use and Transportation of Firearms and Bows/Exceptions.

(i) subsections (b) (i), (ii), (iii) and (iv) shall not apply to any person authorized by Section 26.402 to enforce the provisions of this code who, in the line of duty places, possesses, transports, loads or discharges a firearm in, on or from a vehicle or motorboat or discharges a firearm from or across a highway or within 50 feet of the center of a highway.

(ii) subsection (b) (ii) shall not prohibit a member from leaning an unloaded firearm against a vehicle.

(iii) subsections (b) (ii) and (iii) shall not apply to a member in or on a stationary vehicle which is parked off a highway and parked more than 50 feet from the center of the roadway.

(iv) subsections (b) (iv) and (v) shall not apply to a member who is lawfully hunting small game with a shotgun loaded with shotshell or chilled shot number BB or smaller, if the surface of the highway or roadway is anything other than concrete or blacktop.

(v) subsections (b)(ii), (iii), (iv) and (v) shall not apply to a member who is hunting with a disabled hunters permit issued pursuant to Section 26.332 of this ordinance.

(4) Restriction on use of bait.

(a) No member shall use bait to hunt unless such bait is confined to an area measuring no more than two (2) feet in width and two (2) feet in length.

(b) No member shall place, use or hunt over bait containing or contained within metal, plastic, glass, wood or nondegradable materials.

(c) No member shall place or hunt over bait or liquid scent within fifty (50) yards of any trail, road or campsite used by the public.

(d) No member shall use honey for bait.

(e) No member shall use any animal flesh for bait unless the member places a metal identification tag indicating the member's tribal affiliation and tribal identification number on the tree nearest the bait, at eye level, directly facing the bait.

(f) This section shall not prohibit hunting over bait materials deposited by natural vegetation or found solely as a result of normal agricultural practices.

26.322 Hunting with Aircraft Prohibited.

No member shall hunt with the aid of an airplane, including the use of an airplane to spot, rally or drive wild animals for hunters on the ground.

26.323 Pivot Guns and Similar Devices Prohibited.

No member shall place, operate or attend, spread, or set any net (except as authorized for fishing pursuant to Chapter 9), pitfall, spring gun, pivot gun, swivel gun, or other similar contrivance for the purpose of catching or which might catch, take or ensnare wild animals.

26.324 Tampering with Equipment of Another Prohibited.

No member shall molest, disturb, tamper with or in any way otherwise interfere with any hunting, fishing, trapping or gathering equipment used, set or placed by another except with the owner's permission.

26.325 Endangered and Threatened Species Protected.

Except as otherwise permitted by law, no member shall take, transport, possess, process or sell any endangered and threatened species as defined in Section 26.201(4).

26.326 Records of Commercial Transaction Required.

(1) Except as otherwise provided in this ordinance no member shall sell any protected wild animal or wild plant to any person unless the member maintains a written record made within 24 hours of all transactions on forms prescribed by the Tribe indicating the amount and type of resource involved in the transaction, the parties to the transaction, and the date of the transaction.

(2) Records maintained pursuant to the requirement of subs. (1) shall be forwarded monthly to the tribal conservation department, or its designee.

- (3) No member shall fail to comply with the reporting requirements of subs. (2).

26.327 Wild Animal Refuges Established.

(1) The following Commission documents, as they may be amended from time to time, are hereby adopted and incorporated as if fully set forth herein:

(a) Tribal Fish Refuges Version 1: November 15, 1985;

(b) Tribal Wildlife Refuges and Closed Areas (Version 3 September, 1990); and

(c) Tribal Fish Management Experiments.

(2) No member shall fail to comply with the closures and other restrictions established by the documents adopted by subs. (1).

26.328 Unprotected Species.

Except as otherwise provided, nothing in this code shall be construed to prohibit or regulate the off-reservation harvest of any unprotected species, as defined in Section 26.201(16), in the ceded territory.

26.329 Protected Species.

No member shall hunt, fish, trap or gather any of the following species: paddlefish, spoonbill catfish, moose, elk, marten, wolverine, badger, flying squirrel, timber wolf, lynx, cougar, homing pigeon or any wild bird, except those species whose harvest is specifically regulated pursuant to Chapter 8 {Small Game Harvesting Regulations} and Chapter 10 {Migratory Bird Harvesting Regulations}.

26.330 Permissible Conduct.

(1) Conduct which is not expressly prohibited, restricted or otherwise regulated by this code shall be deemed permissible.

(2) Except as provided in subs. (3) or as otherwise provided herein, nothing in this code shall be construed to prohibit a member from hunting, fishing, trapping, or gathering with any other person who is not a member or a member of another Lake Superior Chippewa Band, provided that such other person possesses a license or is otherwise not prohibited from engaging in the activity involved and complies with the laws of the State of Wisconsin governing such activity.

(3) (a) No member shall allow any person who is not a member of a signatory tribe to assist, and no such person shall assist, in the activities authorized by this ordinance except in accordance with the provisions of this subsection, as provided in subs.(2), above, and as provided in Section 11.12 {Timber Harvest/assistance by Non-Members.}, and as provided in Section 26.332 {Disabled Hunters Permit.}.

(b) (i) Except as provided in subs. (2), those persons who may assist a member shall be limited to the member's spouse, forebears, children, grandchildren and siblings.

(ii) for the purposes of this subsection:

(1) "Forebears" includes only parents and grandparents.

(2) "Siblings" includes persons who have one or both parents in common.

(c) A member may be assisted by a non-member in accordance with this subsection only if the member is physically present during the activity which constitutes assistance.

(d) Non-member "assistance" pursuant to this subsection shall be limited to the following activities:

(i) operation of a boat during spearing;

(ii) placing or lifting a net, set pole, bank pole or setline;

(iii) setting or lifting of unattended lines during ice fishing;

(iv) in hunting, all activities except the actual use of a firearm, bow and arrow or crossbow to kill an animal;

(v) in trapping and snaring all activities except the setting or placement of traps and snares;

(vi) in harvesting wild rice, all activities;

(vii) in harvesting clams, crayfish, turtles and species the harvest of which are not prohibited or otherwise regulated by this ordinance, all activities except the actual use of a device to kill an animal of the specific act which reduces an animal to possession.

26.331 Emergency Closures.

(1) Notwithstanding any other provision of this Code, the Director of the Biological Services Division of the Commission is hereby authorized and empowered to order the closure of the harvest activity of any species, generally or with respect to a particular location or body of water, whenever in his or her professional opinion and judgment the continuation of the harvest is likely to result in a harvest exceeding the harvest goals and quotas adopted pursuant to Section 7 of the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory or may otherwise cause biological harm to the species involved.

(2) Every reasonable effort shall be made to consult with and obtain the approval of the Tribe prior to ordering an emergency closure, but such closure may be ordered without consultation or approval if circumstances require.

(3) An emergency closure shall become effective immediately upon issuance or at such other time or date as the closure order may direct. Such closure shall be communicated to the Tribe by the best and swiftest practicable method.

(4) No member shall violate the terms, conditions, or restrictions of an emergency closure order issued pursuant to this section.

26.332 Disabled Hunters Permits.

(1) (a) The Tribal Conservation Department is authorized to issue Disabled Hunters Permits in accordance with the provisions of this Section and may impose terms and conditions on a permit as it deems appropriate that are in addition to those specified in this Section.

(b) Members desiring a Disabled Hunters Permit shall apply to the Tribal Conservation Department on such forms as the Department prescribes and shall provide such information as the Department requests. The Department may deny an application if the member fails to provide the requested information.

(2) (a) No member shall hunt pursuant to this section without possessing a validly issued Disabled Hunters Permit.

(b) No member shall fail to comply with the terms and conditions of a Disabled Hunters Permit.

(3) The intent of this Section is to afford a hunting opportunity to members who suffer from physical disability or impairment and who would face a significant

health risk by participating in normal hunting activities or who would find it unduly burdensome or would otherwise be unable to participate in normal hunting activities.

(4) For the purpose of this ordinance, "street" means a highway { see Section 26.321(3)(a)(ii) } that is within the corporate limits of a city or village.

(5) A Disabled Hunters Permit shall authorize the holder of the permit to hunt from a stationary vehicle and to load and discharge a firearm or shoot a bolt or an arrow within 50 feet of the center of a roadway provided:

(a) The roadway is part of a county highway, a town highway or any other highway that is not part of a street or of a state trunk or federal highway;

(b) The holder of the permit is not hunting to fill the permit or tag of another person;

(c) The vehicle bears special registration "handicapped" or "disabled" plates issued by the tribe, a state or other governmental entity, or displays a sign provided by the Tribal Conservation Department on which "disabled" is conspicuously written; and

(d) The holder of the permit discharges the firearm or shoots the bolt or arrow away and not across or parallel to the roadway.

(6) To be eligible for a Disabled Hunters Permit, a member must otherwise be authorized to hunt pursuant to this ordinance and must submit to the Tribal Conservation Department a written statement verifying that the member suffers from a temporary or permanent disability or impairment and would face a significant health risk by participating in normal hunting activities or would find it unduly burdensome or otherwise be unable to participate in normal hunting activities.

(7) No member shall, with the intent to fraudulently obtain a Disabled Hunters Permit under this section, provide false or misleading information in applying for or otherwise seeking such permit.

(8) A member who feels that he or she has been unreasonably denied a Disabled Hunters Permit may request the Tribe's Governing Body to review the decision of the Tribal Conservation Department.

(9) (a) A holder of a Disabled Hunters Permit may be assisted by any person, including one who is not eligible for a permit or carry a firearm, bow or crossbow unless authorized to do so under tribal or state law.

(b) The assisting person shall not be deemed to have violated the provisions of Section 26.321 (3) {Safe Use and Transportation of Firearms and Bows} of this ordinance simply by virtue of the acts of a Disabled Hunters Permit holder in or from the assisting person's vehicle. However, should the assisting person violate any other applicable provision of the ordinance, he or she may be issued a citation accordingly. In addition, should the permit holder violate any provision of this ordinance, the assisting member may be issued a citation pursuant to Section 26.413 {Parties to a Violation} or any other applicable section of this ordinance.

(c) The assisting person may help the Disabled Hunters Permit holder in any activity except the actual use of a firearm, bow or crossbow.

CHAPTER IV: ENFORCEMENT

26.401 Hearings in Tribal Court.

Jurisdiction over all matters arising under this code shall be with the tribal court which shall adjudicate in accordance with the Tribal Court Code all questions, complaints and alleged violations involving the provisions of this ordinance. Forfeiture proceedings shall be conducted in accordance with Chapter IV of the Tribal Court Code, provided that citations issued thereunder may be served by ordinary mail.

26.402 Enforcement by Deputized Conservation Warden.

Any provision of this code may be enforced by wardens of the tribal conservation department or by wardens of the Commission. Said Commission wardens are hereby deputized by the Tribe as tribal conservation wardens for the purpose of enforcing this code.

26.403 Enforcement by Wisconsin Department of Natural Resources Wardens.

Wardens and Deputy Wardens of the Wisconsin Department of Natural Resources are hereby empowered to enforce the provisions of this code and to institute proceedings in the tribal court by use of citation forms of that Department as described in Wis. Stat. s.23.54 or to refer the matter to appropriate tribal wardens or the tribal prosecutor for further investigation or action.

26.404 Search and Seizure: When Authorized.

Any person authorized to enforce the provisions of this code may conduct a search of an object, place or person whose conduct is regulated by the provisions of this ordinance, and seize things when the search is made:

- (1) With consent;
- (2) Pursuant to a valid search warrant;
- (3) With the authority and within the scope of a right of lawful inspection as provided in Section 26.405(1)(a);
- (4) Incident to the issuance of a lawfully issued citation under this code; or
- (5) As otherwise authorized by law or by the provisions of this code.

26.405 Investigations and Citations.

- (1) Any person authorized to enforce the provisions of this code may:
 - (a) Subject to subsection (2), conduct routine inspections of vessels, boats, wagons, trailers, automobiles, vehicles, snowmobiles, containers, packages, and other receptacles contained therein, utilized by a person in a harvest activity authorized by this code and of records of commercial transactions required under Section 26.326 which have not yet been forwarded to the tribal conservation department, or its designee;
 - (b) Execute and serve warrants and other process issued by the tribal court in accordance with applicable law;
 - (c) Stop and board any boat and stop any automobile or other vehicle pursuant to subs. (1)(a) or if the person reasonably suspects there is a violation or breach of this code;
 - (d) With or without a warrant, open, enter, and examine vessels, boats, wagons, trailers, automobiles, vehicles, snowmobiles, and packages and other receptacles contained therein, in which the person has probable cause to believe that contraband wild plants or wild animals, or carcasses or part thereof, may be contained or pursuant to subs. (1)(a);
 - (e) Issue a citation on a form approved by the Tribe or tribal court to any person whose conduct is regulated by the provisions of this ordinance upon reasonable belief that such member has violated or breached a provision of this code; and
 - (f) May seize and hold subject to the order of the tribal court any alleged contraband or property which such person reasonably believes may be needed as evidence in connection with the institution of proceedings in tribal

court or any property otherwise authorized to be seized by the provisions of this code.

(2) The inspections authorized by subsection (1)(a) shall be conducted in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities.

26.406 Members of other Tribes, Tribal Court Adjudications.

The tribal court is authorized to adjudicate alleged violations by any member of a signatory tribe of any off-reservation conservation code of either Tribe provided:

(1) The relevant provisions of such codes are in essential conformance with the parallel provisions of this code; and

(2) The other Tribe has authorized the adjudication.

26.407 Registration Information.

Tribal and Commission wardens are hereby empowered to request and receive from tribal tag and permit issuance stations and harvest registration stations information regarding tag and permit issuance and harvest registration.

26.408 Penalties.

Any person who, for himself or herself, or by his or her agent, servant or employee or who as an agent, servant or employee of another, violates this Code, shall be liable as follows:

(1) For all violations for which no other amount is specified, a civil remedial forfeiture of not more than \$5,000.00;

(2) For any violation, a revocation or suspension of off-reservation hunting, fishing or gathering privileges for a period of time within the discretion of the court;

(3) For any violation, a civil remedial forfeiture of any property, including boats, motors, vehicles, hunting or fishing equipment, or other property, used in the commission of the violation of this code;

(4) For all violations, the court may order a natural resources assessment not to exceed 75% of the amount of the civil remedial forfeiture; and

(5) For all violations, court costs in the amount of \$20. The Court shall suspend all off-reservation privileges or licenses in all cases until payment of the forfeiture imposed.

(6) The court may order community service work in lieu of any forfeiture imposed.

26.409 Enhancement of Forfeiture.

Upon conviction of any member for a violation of this Code, when such person has been convicted of a previous violation of this Code within a period of one year, the forfeiture shall be enhanced as follows:

(1) For a violation carrying a \$20 minimum, not less than \$100 nor more than \$500.

(2) For a violation carrying a \$100 minimum, not less than \$250 nor more than \$500.

(3) For a violation carrying a \$250 minimum, \$500.

(4) For a third violation within a period of one year, \$500 and mandatory revocation of all off-reservation treaty privileges for a minimum of one (1) year.

26.410 Civil Damages.

In addition to any other penalty allowed by this code, the tribal court may award to the Tribe or, in addition to an action to impose penalties, the Tribe may bring a civil action for recovery of damages against any person unlawfully killing, wounding, catching, taking, trapping, or having unlawfully in possession any of the following named protected wild plant, wild animals, or any part thereof, and the sum assessed for damages for each wild plant or wild animal, shall not be less than the amount stated in this section:

(1) Any endangered and threatened species protected under this code, \$875.00.

(2) Any fisher, prairie chicken or sand hill crane, \$262.50.

(3) Any deer, moose, elk or bear, \$75.00.

(4) Any bobcat, cougar, fox, beaver or otter, \$87.50.

(5) Any coyote, raccoon or mink, \$43.75.

(6) Any sharptail grouse, ruffed grouse, spruce grouse, wild duck, coot, wild goose or brant, \$26.25.

(7) Any pheasant, Hungarian partridge, bobwhite, quail, rail, Wilson's snipe, wood cock or shore bird, or protected song bird or harmless bird, \$17.50.

(8) Any muskrat, rabbit or squirrel, \$8.75.

(9) Any muskellunge or rock or lake sturgeon, \$43.75.

(10) Any largemouth or smallmouth bass, \$26.25.

(11) Any brook, rainbow, brown, or steelhead trout, \$26.25.

(12) Any walleye, northern pike, or any other game fish not mentioned in pars. (9) to (11), \$8.75.

(13) Any wild animal or wild plant not mentioned in pars. (2) to (8), \$17.50.

26.411 Seized Wild Animals and Wild Plants.

No wild animal or wild plant seized pursuant to this code shall be returned to a convicted violator, his or her immediate family, or other member of the hunting, fishing or gathering party.

26.412 Specific Minimum Forfeitures for Certain Violations.

(1) For a violation of double or more the bag limit for walleye, a forfeiture no less than \$150 and no greater than \$500, plus a forfeiture no less than \$8.75 and no greater than \$500 for each walleye in excess of double the bag limit.

(2) For a violation of more than double the bag limit specified for muskellunge, a forfeiture no less than \$75 and no greater than \$1000 for each muskellunge over double the bag limit.

(3) For a violation of more than double the bag limit established for bass, a forfeiture no less than \$25 per bass in excess of double the nightly bag limit.

(4) For a violation of more than double the bag limit for sturgeon, a forfeiture no less than \$400 per sturgeon in excess of double the bag limit.

(5) For spearing in closed waters, a forfeiture no less than \$150 and a forfeiture of no less than \$8.75 for each walleye, no less than \$75 for each

muskellunge, and no less than \$400 for each sturgeon, provided that each per fish forfeiture does not exceed \$500.

(6) For a violation of walleye size limits, a forfeiture no less than \$50 and no greater than \$500, plus a forfeiture of \$8.75 per walleye for possessing more than two (2) walleye in violation of Section 26.905 (3)(b)(ii) or of possessing more than one walleye in excess of 24 inches in violation of said Section.

(7) For netting in closed waters, a forfeiture no less than \$250 and a forfeiture no less than \$8.75 for each walleye, no less than \$75 for each muskellunge, no less than \$25 for each bass, and no less than \$400 for each sturgeon.

(8) For each violation of walleye sex limits, a forfeiture no less than \$50 and no greater than \$500, plus a forfeiture of \$8.75 per walleye.

(9) For a violation of spearing or netting without a permit where required, a forfeiture no less than \$100 plus a forfeiture of \$8.75 for each walleye, \$75 for each muskellunge, \$25 for each bass, and \$400 for each sturgeon taken in violation of the permitting requirement.

(10) For a violation of taking an antlerless deer without the required permit, a minimum forfeiture of \$100.00.

(11) For a violation of taking an antlerless deer from a management unit not authorized by the requisite permit, a minimum forfeiture of \$100.00.

(12) For a violation of hunting or taking a bear without the required permit, a minimum forfeiture of not less than \$100.00.

26.413 Parties to a Violation.

(1) Whoever is involved in the commission of a violation of this code shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is involved in the commission of the violation if the person:

(a) Directly commits the violation;

(b) Aids or abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.

26.414 Harvesting After Revocation or Suspension.

No member whose off-reservation hunting, fishing or gathering privileges have been revoked or suspended pursuant to Section 26.408(2) or (5), shall hunt, fish, trap or gather off-reservation any wild plant or wild animal, the harvest of which is regulated by this code, during such revocation or suspension.

CHAPTER V: WILD RICE HARVESTING

26.501 Tribal Wild Rice Authority

(1) Creation. There hereby is created a Tribal Wild Rice Authority which shall have the powers and duties enumerated in this chapter.

(2) Definition. As used in this chapter, "Tribal Wild Rice Authority" shall mean the individuals named by the Tribe's governing body to act in the manner of the traditional Rice Chiefs for the purposes of implementing the provisions of this Chapter and of regulating the harvest and conservation of wild rice.

(3) Powers. The Tribal Wild Rice Authority may:

(a) Designate the open and closed dates for harvesting wild rice growing within the ceded territory by posting notice of the open dates on the shores of and at places of access to such waters and at the tribal conservation department and by notifying the Commission's Biological Services Division at least 24 hours before such open dates;

(b) For conservation purposes, establish a closed season on any body of water for which no closed season is established by the Commission's Biological Services Division pursuant to Section 26.506(1)(a); and

(c) Establish a year-round open season as circumstances may allow on any body of water for which a closed season has been established pursuant to subs. (3)(b) or Section 26.501(1)(a).

(4) Sufficient Notice of Opening Dates. The posting of an open date for harvesting wild rice pursuant to subs. (3)(a) shall be deemed sufficient notice of such opening date and no other publication thereof is required.

(5) Consultation Required.

(a) In exercising its powers and duties under subs. (3), the Tribal Wild Rice Authority shall consult with and obtain the advice and

recommendations of the Tribe's governing body, the tribal conservation department and the Commission's Biological Services Division.

(b) The Tribal Wild Rice Authority shall not open any body of water for which a closed season has been established pursuant to section 26.506(1)(a) without first consulting with the Wisconsin Department of Natural Resources or prior to the opening date of the corresponding season provided by the laws of the State of Wisconsin.

26.502 Permit Required.

No member shall harvest or gather wild rice pursuant to this ordinance without possessing a valid wild rice harvesting permit issued by the tribal conservation department. No wildrice harvest permit is required of helpers of a permittee who participate only in shore operations.

26.503 Sale of Wild Rice Authorized.

(1) Nothing in this ordinance shall be construed to prohibit members from selling wild rice legally harvested pursuant to this ordinance.

(2) The provisions of Section 26.326 (Records of Commercial Transactions Required) shall not apply to the sale of wild rice.

26.504 Allowable Methods.

(a) No member shall harvest or gather wild rice by the use of any method other than smooth, rounded cedar rods or sticks not more than 38 inches in length and which are held and operated by hand.

(b) No member shall bind or otherwise bundle together any wild rice stalks, or harvest or gather any wild rice, the stalks of which have been bound or otherwise bundled together.

26.505 Boats.

No member may harvest or gather any wild rice by the use of any boat longer than 17 feet or wider than 38 inches, or with any modification of the gunwale designed to capture rice outside of the boat, or by the use of any boat propelled by other than muscular power using only a push pole or canoe paddle.

26.506 Open Season.

(1) There is no closed season for the harvest of wild rice on any body of water except for the following:

(a) Any body of water listed in the Commission document entitled Waters Regulated for Tribal Wild Rice Harvesting, Version 1, as it may be amended from time to time, which is hereby adopted and incorporated as if fully set forth herein; and

(b) Any other body of water for which the Tribal Wild Rice Authority has established a closed season pursuant to Section 26.501(3)(b).

(2) No member shall harvest or gather wild rice in any body of water for which there is a closed season pursuant to subs. (1), except during the time(s) as such body of water is posted open by the Tribal Wild Rice Authority pursuant to Section 26.501(3)(a).

26.507 Tribal Designation of Open Waters.

The bodies of water which the Tribal Wild Rice Authority shall be authorized to declare open for the harvest of wild rice shall be determined pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory.

26.508 Hours.

No member shall harvest or gather wild rice between sunset and the following 10:00 a.m., Central Time.

26.509 Harvest Monitoring.

No member shall refuse to cooperate with wild rice harvest monitoring activities conducted by the Tribe or the Commission's Biological Services Division.

26.510 Harvest by Authorized Officials.

Nothing in this Chapter shall prohibit or preclude the tribal conservation department, the Commission's Biological Services Division or their designees from harvesting or gathering wild rice for scientific purposes or otherwise within the performance of their duties.

26.511 Harvest in Certain Locations Prohibited.

(1) (a) No member shall harvest or gather wild rice from any portion of a stream or flowage where the bed is privately owned.

(b) For the purposes of this section, "privately owned" means owned by a person or entity other than the Tribe, another signatory tribe, or the State of Wisconsin or its political subdivisions.

(2) No member shall harvest or gather wild rice from Wisconsin-Minnesota boundary waters as those waters are defined in Section 13.02(2)(n) of this ordinance.

26.512 Assistance by Non-members.

No person who is not a member or a member of another signatory tribe shall not assist a member in the gathering of wild rice pursuant to this ordinance except as provided in Section 26.330 (Permissible Conduct/Assistance by Non-Members).

CHAPTER VI: DEER HARVESTING REGULATIONS

26.601 Definitions.

For the purposes of this ordinance, the following terms shall be construed to apply as follows:

(1) "Antlerless deer" means a deer not having at least one antler of at least 3 inches in length.

(2) "Bow" means any hunting instrument designed for the purpose of propelling arrows which is drawn and held by and through the efforts of the person releasing, but does not include crossbow.

(3) "Crossbow" means any device using a bow which, once drawn, is held solely by means other than the effort of the person firing it.

(4) "Firearm" means rifle, shotgun, handgun or other type of gun.

26.602 Open and Closed Season.

(1) A closed season is hereby established for the hunting of deer except for the open season specified in Section 26.607.

(2) Except as otherwise expressly provided by this ordinance, no member shall hunt deer off-reservation in the ceded territory during the closed season.

26.603 Number of Antlerless Deer Available for Harvest.

(1) The number of antlerless deer which shall be available for harvest in each deer management unit pursuant to this ordinance for each twelve month period commencing July 1 and June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory . For the purposes of this ordinance, this number shall be termed the tribal quota.

(2) No member shall hunt antlerless deer in any deer management unit in which no tribal quota has been made available pursuant to subs. (1) or which has been closed to further antlerless deer hunting pursuant to Section 26.621.

26.604 Number of Antlered Deer Available for Harvest. There shall be no limit on the number of antlered deer available for harvest under this ordinance.

26.605 Deer Hunting Permits/Tags.

(1) No member shall hunt deer pursuant to this chapter without possessing a valid deer hunting permit approved by the Tribe. Such a permit may be the member's tribal identification card required by Section 26.302(2).

(2) (a) No member shall hunt deer without possessing a valid carcass tag, except as provided in Section 26.612 {Group Deer Hunting}.

(b) The tribal conservation department shall issue no more than four (4) carcass tags at one time to a member except as authorized in Section 26.619 (Level 2 Commercial Harvest).

(3) (a) No member shall hunt antlerless deer without a valid antlerless deer permit bearing the number of the member's carcass tag(s) and valid for the date on which the member is hunting, except as provided in Section 26.611 (Group Deer Hunting).

(b) No member shall hunt antlerless deer pursuant to Section 26.618 (Level 1 Commercial Harvest) without possessing a valid level 1 commercial antlerless deer harvest permit indicating the level 1 antlerless deer harvest zone in which the member may hunt.

(4) No antlerless deer permits shall be considered valid for any deer management unit:

(a) Which is shown to be closed on the permit;

(b) For which the permit is marked as invalid;

(c) On which any deer management unit number has been slit, punched through or otherwise crossed out in any fashion; or

(d) With respect to a level 1 commercial harvest antlerless deer permit, which lies outside the level 1 commercial harvest zone in which the member is authorized to hunt.

(5) No member shall move or field dress a deer before affixing to it a valid carcass tag.

(6) No member shall move or field dress an antlerless deer without making a slit or punch on the antlerless deer permit through the number of the deer management unit in which the deer has been killed.

(7) (a) Except as otherwise provided in this ordinance, antlerless deer permits shall be valid for no longer than 14 successive days of an open season during such time periods as the Commission's Biological Services Division shall establish.

(b) The tribal conservation department shall not issue an antlerless deer permit prior to the first day of the permit period for which the permit will be valid, except:

(i) a permit may be issued no more than 7 days prior to the regular deer season established pursuant to Section 26.607; and

(ii) a permit may be issued no more than 24 hours prior to the start of the middle deer season established pursuant to Section 26.607.

(8) The number of antlerless deer permits, including commercial harvest antlerless permits issued pursuant to Section 26.618 (Level 1 Commercial Harvest) and Section 26.619 (Level 2 Commercial Harvest), which may be issued at any one time for a deer management unit during an antlerless deer permit period shall be determined in accordance with the procedures and methods approved pursuant to the Chippewa Intertribal Agreement Concerning Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory, and the Voigt Intertribal Task Force Protocol Antlerless Deer Harvest Levels, which was adopted on May 26, 1989, pursuant to that Agreement.

26.606 Deer Registration.

(1) A member who has killed a deer pursuant to this ordinance, or, in the instance of group hunting (Section 26.612), whose carcass tag has been placed on the deer, shall register the deer by presenting it to a tribal registration station no later than 5:00 p.m. of the third working day after the killing. For the purpose of this ordinance, a tribal registration station may include Wisconsin Department of Natural Resources field stations or offices as may be designated from time to time by the Tribe.

(2) Upon registering a deer pursuant to this section, the registering official shall affix a registration tag and duly record it in an appropriate manner all information required to be provided by the member at the time of registration.

(3) A member registering an antlerless deer shall surrender his or her antlerless deer permit upon registration of the deer.

(4) A member registering a deer shall provide the registering official with the following information: the type of deer (antlered or antlerless) taken, the management unit and county where the deer was taken, the date when the deer was taken, the tribal identification number of the member taking the deer and any other relevant information requested by the registering official.

(5) No member shall register a deer except by presenting the whole carcass to the registering official or, in the alternative, by presenting the head of a carcass (except as provided in Section 26.618 and 26.619 (Registration of Deer for Commercial Purposes)) provided the carcass tag is firmly affixed to the head or any part thereof.

(6) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.

(7) Any tribal or Commission warden authorized pursuant to Section 26.402 to enforce the provisions of this ordinance is authorized to register deer in the field provided such warden transmits all registering information to a tribal registration station no later than the registration deadline established by subs. (1), above.

26.607 Deer Seasons; Specific Regulations.

All dates given in this section are inclusive.

(1) Closed Season. No member shall hunt deer from the first Monday following New years Day to Labor Day.

(2) Regular Season. (a) An annual regular firearm, bow and crossbow season is hereby established beginning on the day after Labor Day and ending on the first Sunday following New Years Day or os otherwise provided by a GLIFWC Commission Order, except:

(i) For Metropolitan Herd Control Units in the ceded territory, the annual regular firearm, bow and crossbow season is hereby extended to the last day in January or as otherwise provided by a GLIFWC Commission Order.

(b) The regular deer season shall close at the end of hunting hours on the Friday preceding the Thanksgiving day holiday and shall remain closed at the end of hunting hours on the Friday preceding the Thanksgiving day holiday and shall remain closed for the duration of the middle season established below at which time it shall reopen.

(3) Middle Season. (a) An annual middle firearm, bow and crossbow deer season is hereby established beginning on the Saturday preceding the Thanksgiving day holiday and continuing for at least nine (9) consecutive days.

(b) The middle deer season shall automatically extend beyond nine (9) consecutive days if the State of Wisconsin extends its regular gun deer season beyond nine (9) days and shall remain open for the duration of the State's extended season.

(c) During the middle season, no member shall:

(i) fail to comply with the provisions of Section 26.321(2)(Blaze Orange Required);

(ii) hunt without a tribally-furnished back tag attached to the center of the member's outermost garment where it can clearly be seen; or

(iii) fail to comply with any of the restrictions or requirements generally applicable to deer hunting pursuant to this ordinance.

(4) Emergency Closure. Nothing in this section shall be construed to authorize deer hunting or the opening of a deer hunting season contrary to an Emergency Closure Order issued pursuant to Section 26.331 (Emergency Closure).

26.608 Permissible Methods.

No member shall hunt deer except by the use of any firearm, bow or crossbow, the use of which is not prohibited by this ordinance.

26.609 Firearms Restrictions. No member shall hunt deer:

(1) With a .22 rimfire rifle, 5 mm rimfire rifle, or .17 caliber centerfire rifle;

(2) With a 410 bore shotgun;

(3) With any handgun except a handgun which is loaded with .357, .41 or .44 magnum caliber handgun chambered or commercially manufactured cartridges which produce a minimum muzzle energy of 1000 ft-lbs. and which has a minimum barrel length of 5.5 inches measured from the muzzle of the firing pin with the action closed;

(4) With any shell, cartridge or ammunition known as tracer shells, or with incendiary shells or cartridges (NOTE: Distress flares are exempt from this Section);

(5) With shot shells containing shot of a size less than 12 gauge "00" buckshot.

26.610 Bow/Crossbow Restrictions.

No member shall hunt deer:

- (1) With a bow having a pull of less than 30 pounds or using an arrow that does not have a broadhead; or
- (2) With a crossbow unless the crossbow:
 - (a) Is fired from the shoulder;
 - (b) Has a minimum draw weight of 100 pounds;
 - (c) Has a stock of not less than 30 continuing inches in length;
 - (d) Has a working safety; and
 - (e) Is used with arrows or bolts of not less than 14 inches with a broadhead.

26.611 Group Deer Hunting.

- (1) As used in this section:
 - (a) "Contact" means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.
 - (b) "Group deer hunting party" means 2 or more members lawfully hunting deer in a group under this ordinance.
- (2) Any member of a group deer hunting party may kill a deer for another member of the group deer hunting party if both of the following conditions exist:
 - (a) At the time and place of the kill, the member who kills the deer is in contact with the person for whom the deer is killed.
 - (b) The member for whom the deer is killed possesses a current unused deer carcass tag, and, if the deer is an antlerless deer, an antlerless deer permit valid for the unit in which the deer is killed.
- (3) A member who kills a deer under subs. (2) shall ensure that a member of his or her group deer hunting party without delay attaches a deer carcass tag to the deer prior to moving or field dressing it. No member who kills a deer while group hunting shall leave the deer unattended until after it is properly tagged.

26.612 Hunting Hours.

No member shall hunt deer except during the following hours (dates and times are inclusive and all times refer to Central Standard Time and should be adjusted one hour as necessary to account for Daylight Savings Time):

July 1-December 31 One-half hour before sunrise to one-quarter hour after sunset (Table attached after Ch. 14).

26.613 Transportation.

No member shall transport any deer in or on any motor driven vehicle prior to registration unless the deer is carried so that a portion of it is visible from a passing vehicle and in such manner that the tag attached to the deer cannot be handled or manipulated by any occupant of the vehicle.

26.614 Hunting on Certain Public Lands Prohibited.

No member shall hunt deer on any of the following public lands except as noted:

- (1) Designated public campgrounds, public beaches, and public picnic areas.
- (2) School forests, public landfills and public gravel pits where deer hunting is prohibited and where notice of the prohibition is clearly posted.
- (3) Public land within incorporated areas except for those lands;
 - (a) Which are designated for bow and gun deer hunting; or
 - (b) Which are designated for bow deer hunting.
- (4) (a) All state parks except the following in accordance with the provisions of subs. (4)(b):
 - (i) Big Bay State Park;
 - (ii) Interstate State Park; and
 - (iii) Tuscobia-Park Falls State Trail.
 - (b) An open deer hunting season for firearms, bows and crossbows is hereby established in the state parks listed in subs. (4)(a) from the Saturday preceding Thanksgiving day holiday through December 31.
- (5) All wildlife refuges and closed areas as established pursuant to Section 26.327, except as deer hunting is permitted in those areas.

26.615 Hunting on Certain Private Lands Prohibited.

No member shall hunt deer on any privately-owned land except those lands which, pursuant to Chapter 77.16, Wis. Stats., have been designated as Forest Croplands or Open Managed Forest Lands.

26.616 Sale of Deer and Deer Parts.

(1) Head, Skin and Hooves. Nothing in this ordinance shall be construed to prohibit any member from selling to any person the head, skin and hooves, when severed from the rest of the carcass, of any deer lawfully killed pursuant to this ordinance.

(2) Meat. No member shall sell the meat of any deer killed pursuant to this ordinance, except in accordance with the provisions of Sections 26.617, 26.618, and 26.619.

26.617 Sale of Deer Meat to Members.

(1) Purpose. The purpose of this section is to regulate the sale of deer meat to members of signatory tribes where subsequent sale or resale of the meat to non-members is prohibited. Nothing in this ordinance shall be construed to limit the number of deer, or parts thereof, which may be sold to such members pursuant to this section.

(2) Sale to Members. Any member who has lawfully harvested and registered a deer pursuant to this ordinance may sell the carcass, or any part thereof, of the deer to any other member provided no member who receives a carcass or any part thereof pursuant to this subsection or pursuant to subsection (3) shall sell the carcass or part thereof to any person who is not a member of a signatory tribe.

(3) Sale to Members of Other Tribes. Any member who has lawfully harvested and registered a deer pursuant to this ordinance may sell the carcass, or any part thereof, of the deer to a member of a signatory tribe provided that such other tribe prohibits its member who receives a carcass or any part thereof pursuant to this subsection from selling the carcass or part thereof to any person who is not a member of a signatory tribe.

(4) General Permit/Registration Provisions Unaffected. The provisions of Section 26.605 (Deer Hunting Permits/Tags), including the requirements of Paragraph 5 of the Voigt Intertribal Task Force Protocol, Antlerless Deer Harvest, adopted on May 26, 1989, and of Section 26.606 (Deer Registration) are not affected by the provisions of this Section.

26.618 Level 1 Commercial Harvest Established and Regulated.

(1) Purpose. The purpose of this section is to establish the regulations governing the harvest and registration of no more than 10 deer the meat of which

may be sold pursuant to this ordinance when subsequent sale or resale of the meat to non-members is contemplated.

(2) Effective Date.

(a) The provisions of this section shall not take effect until such time as the tribe's governing body specifically declares them effective by an enabling resolution.

(b) No member shall sell any deer meat pursuant to this section prior to the effective date as declared by the tribe's governing body in accordance with subs. (a).

(3) Level 1 Commercial Harvest Generally. A member who, between July 1 and June 30, has lawfully harvested deer pursuant to this ordinance may register no more than 10 of those deer for level 1 commercial purposes and may sell to any person only the whole carcasses (except for the heads, skins and hooves) of any of those deer, provided the member:

(i) complies with the level 1 commercial harvest provisions of this Section;

(ii) complies with the terms and conditions of the enabling resolution of the tribe's governing body enacted pursuant to subs. (2)(a); and

(iii) otherwise complies with the provisions of this ordinance applicable to deer hunting.

(4) Antlered Deer Level 1 Commercial Harvest.

(a) A member may register pursuant to this subsection an antlered deer lawfully harvested in any deer management unit.

(b) When registering an antlered deer under this subsection, a member shall present the entire deer carcass for registration and no registering official shall register a deer under this subsection unless the entire carcass is presented for registration.

(c) A member register an antlered deer under this subsection at any tribal registration station or with any person authorized to register deer in the field at which time the registering official shall affix a level 1 commercial harvest registration tag to the carcass.

(d) This subsection is not intended to limit a member's ability to otherwise register an antlered deer under the provisions of Section 26.606

{General Deer Registration Provisions} for noncommercial purposes but only shall serve to condition the harvest and limit the number of antlered deer which the member may register under this subsection.

(e) Except as modified by the provisions of this subsection, the provisions of Section 26.605 {Deer Hunting Permits/Tags}, including the requirements of Paragraph 5 of the Voigt Intertribal Task Force Protocol, Antlerless Deer Harvest, adopted on May 26, 1989, and of Section 26.606 {Deer Registration} shall apply to members desiring to register antlered deer under this subsection.

(5) Antlerless Deer Level 1 Commercial Harvest.

(a) A member may register pursuant to this subsection a lawfully harvested antlerless deer provided the provisions of this subsection have been complied with.

(b) When registering an antlerless deer under this subsection, a member shall present the entire deer carcass for registration and no registering official shall register an antlerless deer under this subsection unless the entire carcass is presented for registration.

(c) A member desiring to register an antlerless deer under this subsection for level 1 commercial purposes must obtain a level 1 commercial antlerless deer permit in accordance with the provisions of Section 26.605 {Deer Hunting Permits/Tags} provided:

(i) the permit may be valid at any given time for only one of the following Level 1 antlerless deer commercial harvest zones comprised of the deer management units specified:

Zone I: Units 1, 2, 3, 4, 5, 6, 7, 8, 28.

Zone II: Units 2, 4, 5, 6, 8, 9, 12, 13, 14, 17, 18, 19, 20, 23, 24.

Zone III: Units 14, 28, 29A, 29B, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 52.

Zone IV: Units 35, 38, 39, 40, 42, 43, 44, 45, 46, 47, 48, 49, 50.

Zone V: Units 1, 2, 3, 4, 5, 6, 8, 78, 79.

Zone VI: Units 8, 9, 10, 11, 12, 15, 16, 17, 22.

Zone VII: Units 21, 22a, 25, 26, 27, 33, 57, 57A, 58, 59a, 59b, 62a; and

(ii) the permit is valid for those deer management units within the level 1 antlerless deer commercial harvest zone which are open to hunting antlerless deer.

(d) A member desiring to register an antlerless deer under this subsection for level 1 commercial purposes must register the antlerless deer within and prior to leaving the antlerless deer commercial harvest zone for which an antlerless permit is valid at a tribal registration station or with a person authorized to register deer in the field.

(e) Upon registration, the registering official shall affix a level 1 commercial harvest registration tag to the carcass.

(f) This subsection is not intended to limit a member's ability to otherwise register an antlerless deer under the provisions of Section 26.606 {General Deer Registration Provisions} for noncommercial purposes but only shall serve to condition the harvest and limit the number of deer which such member may register under this subsection.

(g) Except as modified by the provisions of this subsection, the provisions of Section 26.605 {Deer Hunting Permits/Tags}, including the requirements of Paragraph 5 of the Voigt Intertribal Task Force Protocol, Antlerless Deer Harvest, adopted on May 26, 1989, and of Section 26.606 {Deer Registration} shall apply to members desiring to register an antlerless deer under this subsection.

(6) Transfer of Entire Carcass Required No member who has harvested and registered any antlered or antlerless deer pursuant to this section shall sell the deer without transferring the entire carcass of the deer, except for the head, skin and hooves, the registration tag, and such accompanying documents as the Tribe may require to the person to whom the deer is sold.

26.619 Level 2 Commercial Harvest Established and Regulated.

(1) Purpose. The purpose of this section is to establish the regulations governing the harvest and registration of deer the meat of which may be sold pursuant to this ordinance where subsequent sale or resale of the meat of more than 10 deer to non-members is contemplated.

(2) Effective Date.

(a) The provisions of this section shall not take effect until such time as the tribe's governing body specifically declares them effective by an enabling resolution.

(b) No member shall sell any deer meat pursuant to this section prior to the effective date as declared by the tribe's governing body in accordance with subs. (a).

(3) Level 2 Commercial Harvest Generally. A member who obtains a Level 2 Commercial harvest permit pursuant to this section and who lawfully harvests and registers deer pursuant to the permit may sell to any person only the whole carcasses (except for the head, skins and hooves) of any of those deer, provided the member:

(i) complies with level 2 commercial harvest provisions of this section;

(ii) complies with the terms and conditions of the enabling resolution of the tribe's governing body enacted pursuant to subs.(2)(a); and

(iii) otherwise complies with the provisions of this ordinance applicable to deer hunting.

(4) Level 2 Commercial Harvest Permit Application.

(a) Any member who possesses a valid deer hunting permit may apply on such forms as the Tribe may prescribe to the tribal conservation department for an additional permit authorizing the harvest of deer for level 2 commercial purposes on the terms and conditions prescribed by this section.

(b) Upon receipt of an application for a Level 2 Commercial Harvest Permit, the tribal conservation department shall inform the Tribe's governing body, or its designate pursuant to subs. (f), below, and the Commission's Biological Services Division of the application, the management unit in which the applicant seeks to hunt and such other relevant information as is included in the application.

(c) The Commission's Biological Services Division shall, within two(2) working days of the receipt of notice of the application, inform the tribal conservation department and the Tribe's governing body, or its designate pursuant to subs. (f), below, of the number of antlerless deer available for harvest pursuant to this ordinance in the management unit requested by the applicant and of the number of antlerless deer permits which may be issued for that unit in accordance with the provisions of Section 26.605(8) {Limitations on the Number of Antlerless Deer Permits}.

(d) Within 3 working days of the receipt of this information, the Tribe's governing body, or its designate pursuant to subs. (f), below, in consultation with the tribal conservation department and the Commission's Conservation Enforcement Division, shall grant or deny the application, and shall notify the applicant as soon as practicable of its decision.

(e) The decision to grant or deny the application shall be exclusively within the discretion of the Tribe's governing body, or its designate pursuant to subs. (f), below, and a decision to grant the application may impose conditions required by the tribe upon a Level 2 Commercial Harvest Permit which are more restrictive than the conditions imposed by this section.

(f) The Tribe's governing body hereby designates the Biological Services Director for Great Lakes Indian Fish and Wildlife Commission to exercise its powers under this section. Any decision by such designate under this section is subject to review by the Tribe's governing body upon request of the applicant.

(5) Terms and Conditions of a Level 2 Commercial Harvest Permit. A Level 2 Commercial Harvest Permit:

(a) Subject to the provisions of Section 26.605(8) {Limitations on Number of Antlerless Deer Permits}, may authorize a member or group of members to harvest any number of antlered deer and no more than the number of antlerless deer which remain available for harvest from the tribal quota in any one deer management unit;

(b) Shall restrict the member's hunting of deer pursuant to the permit to only one deer management unit at any given time;

(c) Shall require the permittee to register all deer harvested pursuant to the permit at a tribal registration station located within the management unit for which the permit is valid or within an adjoining unit provided the deer is transported directly to a registration station in that adjoining unit on federal or state highways; and

(d) Shall require that all members named on the permit possess an official copy of the permit and at least one valid carcass tag while hunting pursuant to the permit.

(6) Registration of Entire Carcass Required. When registering a deer under a Level 2 Commercial Harvest Permit, a member shall present the entire deer carcass for registration to an authorized registering official and no registering official shall register a deer under this section unless the entire carcass is presented for registration.

(7) Registration Tag Required. Upon registration, the registering official shall affix a level 2 commercial harvest registration tag to the carcass.

(8) General Tagging and Registration Requirements Unaffected. Except as modified by the provisions of this section, the provisions of Section 26.605, {Deer Hunting Permits/Tags}, including the requirements of Paragraph 5 of the Voigt Intertribal Task Force Protocol, Antlerless Deer Harvest, adopted on May 26, 1989, and of Section 26.606 {Deer Registration} shall apply to members hunting pursuant to a Level 2 Commercial Harvest Permit.

(9) Transfer of Entire Carcass RequiredNo member who has harvested and registered any deer pursuant to this section shall sell such deer without transferring the entire carcass of such deer, except for the head, skin and hooves, the registration tag, and such accompanying registration documents as the Tribe may require to the person to whom such deer is sold.

26.620 Shining Prohibited.

No member shall hunt deer while shining as defined in Section 26.314.

26.621 Authorization for Closure.

The Commission's Biological Services Director, or his or her designate, is hereby delegated the authority to close any deer management unit to antlerless deer hunting prior to the season's closing date, provided there is not tribal quota remaining in that unit or when it appears imminent that more than the tribal quota for that unit will be harvested prior to the expiration of the next permit period.

26.622 Removal and Retention of Tags.

(1) No member who kills a deer pursuant to this ordinance shall remove a carcass or registration tag from that deer until such time as the carcass is butchered.

(2) No member who kills a deer pursuant to this ordinance shall dispose of the registration tag until the meat is consumed or except in accordance with the provisions of Sections 26.618(6) and 26.619(9) {Transfer of Tags Upon Sale}.

(3) Any person who receives any meat from a member as a gift or pursuant to Section 26.617 {Sale to Members} from a member who retains a registration tag under this section is not required to possess a registration tag.

26.623 Assistance by Non-Members.

No person who is not a member or a member of another signatory tribe shall assist a member in the hunting of deer pursuant to this ordinance except as provided in Section 26.330 {Permissible Conduct/Assistance by Non-Members}.

CHAPTER VII: BEAR HARVESTING REGULATIONS

26.701 Definitions.

For the purpose of this chapter, the following terms shall be construed to apply as follows:

- (1) "Bow" shall have the meaning provided in Section 26.601(2).
- (2) "Crossbow" shall have the meaning provided in Section 26.601(3).
- (3) "Firearm" shall have the meaning provided in Section 26.601(4).

27.702 Open and Closed Season.

A closed season is hereby established for the hunting of bear except for the open season specified in Section 26.706.

26.703 Hunting During Closed Season Prohibited.

Except as otherwise expressly provided by this ordinance, no member shall hunt bear off-reservation in the ceded territory during the closed season.

26.704 Bear Management Zones.

Bear Management Zones encompassing the listed deer management units are hereby established as follows:

- (1) Zone A: Deer Management Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22 (portion north of US Highway 8), 24, 25, 26, 28, 29a, 29b, 30, 31, and 32.
- (2) Zone B: Deer Management Units 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 49, 50, and 52.
- (3) Zone C: Deer Management Units 21, 22 (portion south of US Highway 8), 22a, 23, 27, 33, 46, 47, 48, 57, 57a, 57b, 57c, 58, 59a, 60, and 62a.

26.705 Number of Bear Available For Harvest.

(1) The number of bear (tribal quota) which shall be available for harvest in each bear management zone pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource

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(2) No member shall hunt bear in any bear management zone in which no bear have been made available for tribal harvest pursuant to subs. (1) or which has been closed to further bear hunting pursuant to Section 26.727.

26.706 Bear Season; Specific Regulations.

All dates given in this section are inclusive.

(1) Closed Season. No member shall hunt bear from November 1 through Labor Day.

(2) Bow and Firearm Season. An annual firearm, bow and crossbow season is hereby established commencing on the day after Labor Day and extending to October 31.

(3) Nothing in this section shall be construed to authorize bear hunting or the opening of a bear hunting season contrary to an Emergency Closure Order issued pursuant to Section 26.331 (Emergency Closure).

26.707 Bear Hunting Permits/Tags.

(1) No member shall hunt bear pursuant to this ordinance without possessing a valid bear hunting permit. Such a permit may be the member's tribal identification card required by Section 26.302(2).

(2) Except as provided in Section 26.713 (Group Bear Hunting), no member shall hunt or shoot a bear without possessing a bear carcass tag valid for the hunting zone in which the bear is shot.

(3) No member shall fail to affix a valid carcass tag to a bear immediately upon reducing the bear to possession.

26.708 Bear Registration.

(1) A member who has killed a bear pursuant to this ordinance, or in the instance of group hunting (Section 26.612), whose carcass tag has been placed on the bear, shall register the bear by presenting it to a tribal registration station no later than 5:00 p.m. of the first working day after the killing.

(2) Upon registering a bear pursuant to this section, the registering official shall affix a registration tag and duly record in an appropriate manner all information required to be provided by the member at the time of registration.

(3) A member registering a bear shall provide the registering official with the following information: the deer management unit and county where the bear was taken, the date when the bear was taken, the tribal identification number of the member taking the bear and any other relevant information requested by the registering official.

(4) No member shall register a bear except by presenting the entire carcass to the registering official or, in the alternative, by presenting only the hide with claws, head and teeth attached thereto, provided the carcass tag is firmly affixed to the hide or any part thereof.

(5) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.

(6) Any tribal or Commission warden authorized pursuant to Section 26.402 to enforce the provisions of this ordinance is authorized to register bear in the field provided such warden provides all registering information to a tribal registration station no later than 5:00 p.m. of the first working day after the field registration.

26.709 Skinning/Preservation Intact.

No member shall skin or butcher, other than for field dressing, a bear prior to registration unless the member leaves the claws, head and teeth attached to the hide.

26.710 Permissible Methods.

No member shall hunt bear except by the use of any firearm, bow or crossbow, the use of which is not prohibited by this ordinance.

26.711 Firearms Restrictions.

No member shall hunt bear with any firearm the use of which is prohibited pursuant to Section 26.609 for hunting deer, while possessing more than one handgun, or with the use of buckshot.

26.712 Bow/Crossbow Restrictions.

No member shall hunt bear with a bow or crossbow not in compliance with the provisions of Section 26.610.

26.713 Group Bear Hunting.

(1) As used in this section:

(a) "Contact" means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.

(b) "Group bear hunting party" means 2 or more members lawfully hunting bear under this ordinance in a group all using firearms.

(2) Any member of a group bear hunting party may kill a bear for another member of the group bear hunting party if both of the following conditions exist:

(a) "Contact" means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.

(b) "Group bear hunting party" means 2 or more members lawfully hunting bear under this ordinance in a group all using firearms.

(3) Any member of a group bear hunting party may kill a bear for another member of the group bear hunting party if both the following conditions exist:

(a) At the time and place of the kill, the member who kills the bear is in contact with the person for whom the bear is killed.

(b) The member for whom the bear is killed possesses a current unused bear carcass tag valid for the bear management zone in which the bear is killed.

(4) A member who kills a bear under subs. (2) shall ensure that a member of his or her group bear hunting party without delay attaches a bear carcass tag to the bear prior to moving or field dressing it. No member who kills a bear while group hunting shall leave the bear unattended until after it is properly tagged.

26.714 Hunting with Non-Members.

Except as provided in Section 26.330 (Permissible Conduct/Assistance by Non-Members), no member may share with anyone who is not a member of a signatory tribe any tribal bear permit, carcass tag, gear, bait, or dogs, except that nothing in this ordinance shall be construed to prohibit a member from hunting with any person who is not a member of the Tribe or of another signatory tribe during the State of Wisconsin bear hunting season if that person has a state license and if an individual in the hunting party has a state bear harvest permit.

26.715 Hunting Hours.

No member shall hunt bear except during the hours established for hunting deer in Section 26.612.

26.716 Transportation.

No member shall transport any bear in or on any motor driven vehicle prior to registration unless the bear is carried so that a portion of it is visible from a passing

vehicle and in such manner that the tag attached to the bear cannot be handled or manipulated by any occupant of the vehicle.

26.717 Hunting on Certain Lands Prohibited.

No member shall hunt bear or any part of the following public lands except as noted:

- (1) Designated public campgrounds, public beaches, and public picnic areas.
- (2) School forests, public landfills and public gravel pits where bear hunting is prohibited and where notice of the prohibition is clearly posted.
- (3) Public lands within incorporated areas except for those lands:
 - (a) Which are designated for bow and gun bear hunting; or
 - (b) Which are designated for bow bear hunting.
- (4) All state parks.
- (5) All wildlife refuges.

26.718 Hunting on Certain Private Lands Prohibited.

No member shall hunt bear on any privately-owned land except those lands which pursuant to Chapter 77, Wis. Stats., have been designated as Forest Croplands or Open Managed Forest Lands.

26.719 Hunting Bear With Dogs.

No member shall hunt bear with dogs except in accordance with the following provisions:

- (1) Dogs Marked. Any dog used to hunt bear must be tattooed or wear a collar with the owner's name and address attached.
- (2) Dog Packs. No more than six dogs in a single pack may be used to hunt bear regardless of the number of bear hunters and regardless of dog ownership.
- (3) Training Season. No member may train dogs by pursuing wild bear except from July 1 through August 30.

26.720 Dens.

No member shall hunt or shoot a bear in a den.

26.721 Landfills.

No member shall hunt or shoot bear in any dump or sanitary landfill.

26.722 Cubs.

No member may shoot, shoot at, or kill any bear cub or any adult bear accompanied by a cub or cubs.

26.723 Removal and Retention of Tags.

(1) No member who kills a bear pursuant to this ordinance shall remove a registration tag from the carcass until such time as the carcass is butchered or when the bear is prepared by a taxidermist.

(2) No member who kills a bear pursuant to this ordinance shall dispose of the registration tag until the meat is consumed or except in accordance with the provisions of Section 26.725(8) (Transfer of Tags Upon Sale).

(3) Any person who receives any bear meat as a gift or pursuant to Section 26.724(2) (a) or (b) (Sale to Members) from a member who retains a registration tag under this section is not required to possess a registration tag.

26.724 Sale of Bear and Bear Parts.

(1) Head and skin.

(a) Sale to Members. No member who has harvested a bear pursuant to this ordinance shall sell the head and skin, when severed from the rest of the carcass, of the bear to another member or to a member of another signatory tribe unless the head, claws and teeth remain attached to the skin, except as follows:

(i) the member may sell any part of the head or skin, including teeth and claws, of a bear lawfully harvested pursuant to this ordinance to any other member provided no member who receives any part of a head or skin pursuant to this paragraph shall sell such parts to any person who is not a member of a signatory tribe; and

(ii) the member may sell any part of a head or skin, including teeth and claws, of a bear lawfully harvested pursuant to this ordinance to a member of any other signatory tribe provided that such other tribe prohibits its member who receives any part of a head or skin from selling such parts to any person who is not a member of a signatory tribe.

(b) Sale to Non-members. No member who has harvested and a bear pursuant to this ordinance shall sell the head and skin, when severed from the rest of the carcass, of the bear to any person who is not a member or a member of another signatory tribe unless the head, claws, and teeth remain attached to the skin.

(2) Meat. No member shall sell the meat of any bear killed pursuant to this ordinance, except as follows:

(a) Sale to Members. Any member who has lawfully harvested and registered a bear pursuant to this ordinance may sell the meat of any carcass, or any part thereof, of the bear to any other member provided no member who receives the meat pursuant to this subsection shall sell such meat to any person who is not a member of a signatory tribe.

(b) Sale to Members of Other Tribes. Any member who has lawfully harvested and registered a bear pursuant to this ordinance may sell the meat of any carcass, or any part thereof, of the bear to a member of any other signatory tribe provided that such other tribe prohibits its member who receives the meat pursuant to this subsection from selling the meat to any person who is not a member of a signatory tribe.

(c) Sale to Non-Members. A member who has lawfully harvested and registered a bear pursuant to this ordinance may sell to a person who is not a member of a signatory tribe only the whole carcass (except for the head, skin and viscera) of the bear, provided the member:

(i) complies with the commercial harvest provisions of Section 26.725; and

(ii) otherwise complies with the provisions of this ordinance applicable to bear hunting.

(3) Teeth, Claws, Paws and Viscera.

(a) Sale to Non-Members. No member shall sell to any person who is not a member of a signatory tribe any tooth, claw, paw or organ which has been severed from the carcass of any bear harvested pursuant to this ordinance.

(b) Sale to Members. No member shall sell to another member or to a member of another signatory tribe any tooth, claw, paw or organ which has been severed from the carcass of any bear harvested by the member pursuant to this ordinance except as follows:

(i) the member may sell any tooth, claw, paw or organ which has been severed from the carcass of a bear lawfully harvested

pursuant to this ordinance to any other member provided no member who receives any such part pursuant to this paragraph shall sell the part to any person who is not a member of a signatory tribe; and

(ii) the member may sell any tooth, claw, paw or organ which has been severed from the carcass of a bear lawfully harvested pursuant to this ordinance to a member of any other signatory tribe provided that such other tribe prohibits its member who receives such part selling the part to any person who is not a member of a signatory tribe.

(c) Sale to the Tribe. Any member who has lawfully harvested and registered a bear pursuant to this ordinance may sell any tooth, claw, paw or organ which has been severed from the carcass of the bear to the Tribe provided:

(i) the Tribe complies with the provisions of subs. (d), below; and

(ii) the member complies with the commercial harvest provisions of Section 26.725.

(d) The Tribe may purchase or otherwise obtain from a member who has lawfully harvested and registered a bear pursuant to this ordinance any tooth, claw, paw or organ which has been severed from the carcass of the bear and may sell such part to any person provided:

(i) the Tribe maintains a record of all such transactions, including the name of the member, the name and address of the subsequent purchaser, the carcass tag and registration tag numbers of the bear which has lawfully harvested and the part or parts involved in the transaction; and

(ii) a bill of sale or other similar document indicating the date of the transaction, the parties to the transaction, and the part or parts involved in the transaction.

26.725 Commercial Harvest Regulated.

(1) Purpose. The purpose of this section is to establish the regulations governing the harvest and registration of bear the meat of which, and the teeth, claws, paws or viscera when severed from the carcass of which, may be sold pursuant to this ordinance when subsequent sale or resale of the meat or such parts to non-members is contemplated.

(2) Effective Date. (a) The provisions of this section shall not take effect until such time as the Tribe's governing body specifically declares them effective by an enabling resolution.

(b) No member shall sell any meat or sell any tooth, claw, paw or organ when severed from the carcass pursuant to this section prior to the effective date as declared by the Tribe's governing body in accordance with subs.(a).

(3) Commercial Harvest Permit Application.

(a) Any member who or a group of members which possesses a valid bear hunting permit may apply on such forms as the Tribe may prescribe to the tribal conservation department for an additional permit authorizing the harvest of bear for commercial purposes on the terms and conditions prescribed by this section.

(b) Upon receipt of an application for a Commercial Harvest Permit, the tribal conservation department shall inform the Tribe's governing body, or its designate pursuant to subs. (f), below, and the Commission's Biological Services Division of the application, the bear management zone in which the applicant seeks to hunt, the time period during which the applicant seeks to hunt and such other relevant information as is included in the application.

(c) The Commission's Biological Services Division shall, within 2 working days of receipt of notice of the application, inform the tribal conservation department and the Tribe's governing body, or its designate pursuant to subs (f), below, of the number of bear available for harvest pursuant to this ordinance in the management zone requested by the applicant.

(d) Within 3 working days of the receipt of this information from the Commission's Biological Services Division, the Tribe's governing body, or its designate pursuant to subs (f), below, in consultation with the tribal conservation department and the Commission's Conservation Enforcement Division, shall grant or deny the application, and shall notify the applicant as soon as practicable of its decision.

(e) The decision to grant or deny the application shall be exclusively within the discretion of the Tribe's governing body, or its designate pursuant to subs. (f), below, and a decision to grant the application may impose conditions required by the Tribe upon a Commercial Harvest Permit which are more restrictive than the conditions imposed by this section.

(f) The Tribe's governing body hereby designates its Fish and Game Program to exercise its powers under this section. Any decision by such designate under this section is subject to review by the Tribe's governing body upon request of the applicant.

(4) Terms and Conditions of a Commercial Harvest Permit. A Commercial Harvest Permit:

(a) May authorize a permittee to harvest no more than the number of bear available for harvest in any one bear management zone;

(b) Shall restrict the permittee's hunting of bear pursuant to the permit to only one bear management zone at any given time;

(c) Shall require a member to register all bear harvested pursuant to the permit at a tribal registration station located within the bear management zone for which the permit is valid or within an adjoining management zone provided the bear is transported directly to a registration station in that adjoining unit on federal and state highways; and

(d) Shall require all members named on the Commercial Harvest Permit possess an official copy of the permit and at least one valid carcass tag while hunting pursuant to the permit.

(5) Registration of Entire Carcass Required. When registering a bear under a Commercial Harvest Permit, a member shall present the entire bear carcass (except for the viscera) for registration to an authorized registering official and no registering official shall register a bear under this section unless the entire carcass (except for the viscera) is presented for registration.

(6) Registration Tag Required. Upon registration, the registering official shall affix a commercial harvest registration tag to the carcass.

(7) General Tagging and Registration Requirements Unaffected. Except as modified by the provisions of this section, the provisions of Section 26.707 (Bear Hunting Permits/Tags) and 26.708 (Bear Registration) shall apply to members hunting pursuant to a Commercial Harvest Permit.

(8) Transfer of Entire Carcass Required.

(a) No member shall sell to any person who is not a member of a signatory tribe any bear registered under this section without transferring the entire carcass of such bear, except for the head, skin, and viscera, the registration tag, and such accompanying documents as the Tribe may require to the person to whom such bear is sold.

(b) (i) No member shall sell to any person who is not a member of a signatory tribe the head or skin of any bear registered under this section without transferring the entire skin with the head, claws and teeth attached, the registration tag if it has not been or will not be transferred pursuant to subs. (a), and such accompanying documents as the Tribe may require to the person to whom the skin is sold. If the registration tag is not available for transfer under this subsection because of transfer pursuant to

subs. (a), the member shall transfer a document indicating the carcass tag and registration tag numbers of the bear from which the skin has been removed.

(ii) no member shall sell to the Tribe pursuant to Section 26.724 (3)(c) any organ of any bear registered under this section without transferring to the Tribe the information and documents required in Section 26.724(3)(d).

26.726 Shining.

No member shall hunt bear while shining, as defined in Section 26.314.

26.727 Authorization for Closure.

The Commission's Biological Services Director, or his or her designate, is hereby delegated the authority to close any bear management zone to bear hunting prior to the season's closing date, provided there remains no bear available for harvest under this ordinance in that zone.

CHAPTER VIII: SMALL GAME HARVESTING REGULATIONS

26.801 Purpose.

The purpose of this chapter is to regulate off-reservation small game hunting and trapping in the ceded territory by members.

26.802 Definitions.

For the purpose of this chapter, the following terms shall be construed to apply as follows:

- (1) "Bow" shall have the meaning prescribed in Section 26.601(2).
- (2) "Crossbow" shall have the meaning prescribed in Section 26.601(3).
- (3) "Firearm" shall have the meaning prescribed in Section 26.601(4).
- (4) "Hunt" or "Hunting" shall have the meaning prescribed in Section 26.201(8) but shall not include trapping for the purposes of this chapter.
- (5) "Trap", in addition to the meaning prescribed in Section 26.201(13), means to trap or snare.
- (6) "Unprotected Species" means:
 - (a) Opossum, skunk, weasel, woodchuck;

(b) Starlings, English Sparrows, coturnix quail, chukar partridge and rock doves;

(c) All other unprotected species as defined in Section 26.201(17).

26.803 Open and Closed Seasons.

A closed season is hereby established for the hunting and trapping of small game except for the specified open season.

26.804 Hunting/Trapping During Closed Season Prohibited.

Except as otherwise expressly provided in this ordinance, no member shall hunt or trap small game off-reservation in the ceded territory during the closed season.

26.805 Fisher Management Zones.

(1) Fisher Management Zones comprised of specific deer management units are hereby established as follows:

(a) Zone A: Deer Management Units 1, 2, 3, 4, 5, 8, 9, 10, 11, 12 and 17.

(b) Zone B: Deer Management Units 6, 7, 13, 14, 18, 19, 20, 25, 28, 29A and 30.

(c) Zone C: Deer Management Units 29B, 31, 32, 34, 35, 36, 37, and 52.

(d) Zone D: Deer Management Units 38, 39, 40, 42, 43, 44, 45, 49, and 50.

(2) No member shall hunt or trap fisher except in the management zones established by this section.

26.806 Small Game Quotas.

(1) The number of otter, bobcat and fisher (tribal quota) which shall be available for harvest pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory.

(2) No member shall hunt or trap fisher in any fisher zone in which no fisher have been made available for tribal harvest pursuant to subs. (1) or which have been closed to further fisher harvest pursuant to Section 26.824.

26.807 Small Game Harvest Permits/Tags.

(1) (a) No member shall hunt small game pursuant to this chapter without possessing a valid small game hunting permit.

(b) No member shall hunt otter, bobcat or fisher without possessing a valid carcass tag.

(2) (a) No member shall trap small game pursuant to this chapter without possessing a valid small game trapping permit.

(b) No member shall trap otter, bobcat, or fisher without possessing a valid carcass tag.

(3) No small game hunting or small game trapping permit shall be considered valid for hunting or trapping any fisher in a fisher management zone:

(a) Which is shown to be closed on the permit;

(b) For which the permit is marked as invalid; or

(c) On which any fisher management zone letter has been slit, punched through or otherwise crossed out in any fashion.

(4) Except as provided in Section 26.820 (Possession and Sale of Live Small Game Animals), no member shall move or field dress an otter, bobcat or fisher before affixing it to a valid carcass tag.

26.808 Otter, Bobcat and Fisher Registration.

(1) (a) A member killing a fisher pursuant to this ordinance shall register the animal by presenting it to a tribal registration station no later than 5:00 p.m. of the first working day after killing if the animal was hunted or after retrieval if the animal was trapped.

(b) A member killing an otter or bobcat pursuant to this ordinance shall notify a tribal registration station of the killing no later than 5:00 p.m. of the first working day after the killing if the animal was hunted or after retrieval if the animal was trapped. The member shall present the animal for registration on the date and at the location specified by the registering official.

(2) Upon registering an otter, bobcat or fisher pursuant to this section, the registering official shall, except as provided in Section 26.820 (Sale and Possession of Live Small Game Animals), affix a registration tag and shall duly record in an appropriate manner all information required to be provided by the member at the time of registration.

(3) A member registering an otter, bobcat or fisher shall provide the registering official with the following information: the sex of the animal taken, the deer management unit and county where the animal was taken, the date when the animal was taken, the tribal identification number of the member taking the animal and any other relevant information requested by the registering official.

(4) No member shall register an otter, bobcat or fisher except by presenting the whole carcass to the registering official, or in the alternative official, or in the alternative, by providing the whole skin to the registering official provided the carcass tag is attached to the skin.

(5) No member shall provide information to the registering official which the member knows, or has reason to know, is false or misleading.

(6) Any tribal or Commission warden authorized pursuant to Section 26.402 to enforce the provisions of this ordinance is authorized to register otter, bobcat or fisher in the field provide such warden transmits all registering information to a tribal registration station no later than the registration deadline established by subs. (1), above.

(7) No member shall fail to transfer the carcass, except for the skin, of any fisher, bobcat or otter to the tribal conservation department or the Commission's Biological Services Division when requested unless the carcass was delivered to a licensed fur buyer.

26.809 Small Game Seasons; Specific Regulations.

(1) Annual small game trapping seasons for the time periods provided in this subs 2(b) and annual small game hunting seasons for the time periods provided in subs. 3(b) are hereby established.

(2) (a) For the purposes of small game trapping, seasons begin at 6:00 a.m. of the opening date and end at 11:59 p.m. of the closing date.

(b) The small game trapping season for all species, except for otter and fisher, listed in subs. 3(b) shall commence on October 1 and closes on March 31, the otter and fisher trapping season commences on November 1 and closes on March 31.

(3) (a) For the purposes of small game hunting, seasons begin and end in accordance with the applicable hunting hours prescribed in Section 26.810.

(b) Specific small game hunting seasons (all dates are inclusive):

- (i) Bobcat: October 1-March 31
- (ii) Beaver: Year Around
- (iii) Bobwhite Quail: Day after Labor Day -March 31
- (iv) Coyote: Year Around
- (v) Cottontail Rabbit: Year Around
- (vi) Fisher: No Open Hunting Season
- (vii) Hungarian Partridge: Day after Labor Day - March 31
- (viii) Mink: No Open Hunting Season
- (ix) Muskrat: No Open Hunting Season
- (x) Otter: No Open Hunting Season
- (xi) Pheasant: Day after Labor Day- March 31
- (xii) Raccoon: Day after Labor Day- March 31
- (xiii) Red and Gray Fox: Year Around
- (xiv) Red, Gray and Fox Squirrel: Year Around
- (xv) Ruffed Grouse: Day after Labor Day-March 31
- (xvi) Sharp-Tailed Grouse: Day after Labor Day- March 31
- (xvii) Snowshoe Hare: Year Around
- (xviii) Unprotected Species: Year Around

(c) The daily bag limit for sharp-tailed grouse is one and no member shall harvest any sharp-tailed grouse in excess of this bag limit.

(4) Nothing in this section shall be construed to authorize small game hunting or trapping or the opening of a small game hunting or trapping season for a particular species contrary to an Emergency Closure Order issued pursuant to Section 26.331 (Emergency Closure).

26.810 Hunting Hours.

(1) Except where otherwise expressly authorized by this ordinance, no member shall hunt small game except during the hours prescribed by this section (all dates and times given are inclusive and all times refer to Central Standard Time and should be adjusted one hour as necessary to account for Daylight Savings Time).

(2) Lawful Small Game Hunting hours during open seasons are provided as follows:

(a) From September 1 through March 31, for all small game animals except coyote, fox, raccoon, snowshoe hare and unprotected species one-half hour before sunrise to 15 minutes after sunset (table attached after Chapter 14).

(b) From April 1 through August 31, for all small game species 24 hours per day.

(c) For coyote, fox, raccoon, snowshoe hare and unprotected species, 24 hours per day except during the middle deer season established pursuant to Section 26.607(3) when hunting hours shall be the same for small game and deer hunting.

26.811 Hunting and Trapping on Certain Public Lands Prohibited.

No member shall hunt or trap small game on any of the following lands except as noted:

(1) Designated public campgrounds, public beaches and public picnic areas.

(2) School forests, public landfills and public gravel pits where small game hunting is prohibited and where notice of the prohibition is clearly posted.

(3) Public lands within incorporated areas except for those lands which are designated for small game hunting or trapping.

(4) All state parks.

26.812 Hunting on Certain Private Lands Prohibited.

No member shall hunt small game on any privately-owned land except those lands which, pursuant to Chapter 77.16, Wis. Stats., have been designated as Forest Croplands or Open Managed Forest Lands.

26.813 Trapping on Certain Private Lands Prohibited.

(1) No member shall place a trap on any privately-owned land.

(2) For the purposes of this section, "privately owned" means owned by a person or entity other than the Tribe, another signatory Tribe, or the State of Wisconsin or its political subdivisions, and includes the bed of any stream or flowage owned by such person or entity.

26.814 Specific Small Game Hunting and Trapping Closed Areas and Refuges.

No member shall hunt or trap small game in any wildlife refuge or closed area as established pursuant to Section 26.327 contrary to the closures and restrictions established by that section.

26.815 Small Game Hunting Prohibited Methods.

While hunting small game, no member shall:

- (1) Use or possess any device designed or used for the purpose of driving rabbits out of their holes or dens;
- (2) Use or possess any ferret; or
- (3) Molest the nest or den of any squirrel.

26.816 Shining Raccoon, Fox or Unprotected Species.

(1) No member shall hunt raccoon, fox or any unprotected species while shining as defined in Section 26.314 except:

- (a) While hunting on foot during the open season for the animal hunted, a member may possess or use a flashlight at the point of kill; or
- (b) While on foot training a dog to hunt or trap raccoon, fox or any unprotected species, a member may possess or use a flashlight.

(2) No member shall hunt raccoon, fox or any unprotected species while shining during the middle deer season established pursuant to Section 26.607(3).

26.817 Identification of Traps Required.

(1) No member shall trap pursuant to this ordinance without affixing to each trap or snare a metal tag upon which shall be stamped or engraved the trapper's name and address and the initials "___" indicating membership in the tribe.

(2) Any trap or snare which is untagged shall be immediately seized and confiscated, and the owner or member using or attending the untagged trap shall be subject to citation for a violation of the provisions of subs. (1).

26.818 Specific Trapping Regulations.

No member shall:

- (1) Set out traps or snares except during the open season.
- (2) Set out bait or scent for attracting furbearing animals except during the open season.
- (3) Use sight-exposed bait, visible from above, consisting of feathers, animal flesh, fur, hide or entrails within 25 feet of trap or snare.
- (4) Use water sets except during the open season for muskrat, beaver or otter.
- (5) Fail to check all dry land sets and snares and remove all animals therein at least once each day.
- (6) Place on the ice any artificial house or den, or place therein any trap or snare, which has the purpose or may have the effect of taking furbearers.
- (7) Set, place, possess or operate on or adjacent to waters any trap other than a snare or steel-jawed trap or live-trap capable of capturing only one animal in a single setting for the purpose of taking furbearing animals.
- (8) Set, place or operate except as a water set at least half submerged in water any killer or conibear trap larger than 7" x 7".
- (9) Set, place or operate any steel-jawed trap with a spread width of more than 8 inches.
- (10) Set, place or operate any steel-jawed trap with teeth except as a water set.
- (11) Set, place or operate any killer trap of the conibear type greater than 6" x 6" or 6" in diameter in the following locations:
 - (a) Within 3 feet of any federal, state, or county road right-of-way culvert unless completely submerged in water.
 - (b) Within 3 feet of any woven or welded wire mesh type fence.
 - (c) Within 100 yards of any building devoted to human occupancy without the owner's consent.

26.819 Specific Snaring Regulations.

No member shall trap small game by the use of a snare except in compliance with the following provisions:

- (1) Any snare must be anchored so that it may not be dragged.
- (2) Any snare must be tagged as in Section 26.817(1).
- (3) No snare may be spring activated.
- (4) Any snare must be set in a manner which prevents an animal from being suspended unless it is attached to a drowning mechanism.
- (5) Any upland snare must be removed no later than March 31.
- (6) Any water set snare must be removed no later than March 31.
- (7) Except as provided in subs. (13), any snare must have a mechanical lock which will prevent the snare loop size from becoming smaller than 2-1/2 inches.
- (8) Except as provided in subs. (13), any snare must have a swivel device on the anchor end.
- (9) Except as provided in subs. (13), any snare or cable wire may not have a diameter exceeding 1/8 inch.
- (10) No upland snare shall be set on a well defined deer trail.
- (11) No upland snare shall be set such that the bottom of the loop is more than 6" above the ground or, when the ground is snow covered, more than 6' above the level of the adjoining trail.
- (12) No upland snare shall be set with a loop size greater than 10" in diameter.
- (13) Members may use braided picture wire snares without locks or swivels for the purpose of snaring rabbits or hares.

26.820 Possession and Sale of Live Small Game Animals.

(1) As used in this section, the following terms shall be construed to apply as follows:

(a) "Control temporarily" means to possess a small game animal for a limited period of time for one of the following purposes:

(i) removal or transportation of a small game animal from one location to a more appropriate location;

(ii) restraint or transportation of a small game animal for treatment or medical care;

(iii) restraint or transportation of a small game animal for game censuses, surveys or other purposes authorized by the Tribe; or

(iv) restraint, transportation or possession of a small game animal for the purpose of selling or otherwise transferring the animal to a person who is legally authorized to possess the live animal.

(b) "Possess" means to own, restrain, keep in captivity or transport a small game animal.

(2) Except as otherwise authorized by law or as provided in subs. (3) and (4), no member shall possess, or sell or otherwise transfer to any person, any live small game animal and any member who takes any small game animal shall kill the animal when it is taken or shall immediately release the animal.

(3) A member may control temporarily a live small game animal provided that a member who controls temporarily a live small game animal for the purposes of selling or otherwise transferring the live animal complies with the provisions of subs. (4) and (5).

(4) A member may sell or otherwise transfer a live small game animal which was lawfully taken during the open season for that animal provided:

(a) The member sells or transfers the animal within three (3) days of when the animal was taken or retrieved and, if the animal is not sold or transferred within this period, the member must kill the animal;

(b) The person to whom the live small game animal is sold or transferred is legally authorized to possess the live animal and such person presents evidence of that authorization to the member;

(c) In addition to the requirements of Section 26.326 (Records of Commercial Transactions Required), the member maintains a record of each sale or transfer, the name and address of the purchaser or transferee, the type of authorization or license held by the purchaser or transferee and its number, if any, the date of the sale or transfer, and a description of the animal involved;

(d) If the animal taken for the purpose of selling or

transferring pursuant to this section is an otter, bobcat or fisher, the member must attach the carcass tag to the container in which the animal is transported to the registration station;

(e) Any otter, bobcat or fisher which is taken for the purpose of selling or transferring pursuant to this section shall be registered in accordance with the provisions of Section 26.808 (Otter, Bobcat and Fisher Registration) provided the member retains the registration tag and such other registration documents provided by the registering official until such time as the animal is sold, transferred or otherwise disposed of;

(f) The member transfers to the purchaser or transferee the registration tag and other required registration documents for any otter, bobcat or fisher sold or transferred pursuant to this section; and

(g) The member treats it in a humane manner and confines the animal under sanitary conditions with proper and adequate housing, care, food and fresh water.

(5) Any otter, bobcat or fisher sold or otherwise transferred pursuant to this section shall be counted against the quota for the particular species, and, any fisher shall count against the quota of the fisher management zone in which the fisher was taken.

26.821 Incidental Take.

Any member taking any animal by trapping except during the open season for that animal shall surrender the animal as soon as practicable to the tribal conservation department, or shall immediately release the animal if the animal was live trapped.

26.822 Shipment of Furs.

No member shall send or ship any fur from an animal harvested pursuant to this chapter unless all fur shipments are marked on the outside of the package showing the number and kinds of hides in the shipment and the name and address of the shipper.

26.823 Sale of Small Game Authorized.

(1) Nothing in this ordinance shall be construed to prohibit any member from selling the carcass, or any part thereof, of any lawfully harvested small game animal to any person.

(2) The provisions of Section 26.326 (Records of Commercial Transactions) shall not apply to the sale of the fur of any small game furbearing species.

26.824 Authorization for Closure.

The Commission's Biological Services Director, or his or her designate, is hereby delegated the authority:

(1) To close the small game hunting and trapping season for otter, bobcat or fisher, provided there remains no otter, bobcat or fisher available for harvest under this ordinance; and

(2) To close any fisher management zone prior to the season's closing date, provided there remains no fisher available for harvest under this ordinance in that zone.

26.825 Sharing of Equipment/Assisting Tribal Member.

No member shall share any small game hunting or trapping equipment with or otherwise be assisted while small game hunting or trapping by any person who is not a member or a member of another signatory tribe except as provided in Section 26.330 (Permissible Conduct/Assistance by Non-Members).

26.826 Wild Turkey Hunting Regulations.

(1) (a) Permit Required. No member shall hunt wild turkeys without possessing a valid small game hunting permit issued pursuant to the provisions of this chapter.

(b) Tags for Turkey Management Zones. No member shall hunt wild turkeys in any wild turkey management zone without possessing a carcass tag valid for the zone in which the turkey is killed.

(2) Season. No member shall harvest any wild turkeys except during the open season which shall be as follows (all dates are inclusive):

(a) Fall Season. Day after Labor Day to December 31.

(b) Spring Season. Wednesday nearest April 13 for forty (40) consecutive days.

(3) Number of Wild Turkeys Available for Harvest.

(a) The number of wild turkeys (tribal quota) which shall be available for harvest in each wild turkey management zone pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory.

(b) No member shall hunt wild turkeys in any wild turkey management zone in which no tribal quota has been made available pursuant to subs. (1) or which has been closed to further wild turkey hunting pursuant to subs. (9).

(4) Bag Limit. (a) Within a wild turkey management zone, no member shall harvest any wild turkey in excess of the number of valid carcass tags issued to him or her pursuant to subs. (1)(b) for that zone.

(b) In all areas outside of wild turkey management zones, no member shall harvest more than 1 wild turkey per day.

(5) Wild Turkey Management Zones. A single tribal wild turkey management zone contiguous with that portion of the State of Wisconsin's wild turkey management zone 32 which is located within the ceded territory is hereby adopted for the purposes of this ordinance. This zone shall be referred to as tribal wild turkey management zone 32.

(6) Methods of Turkey Harvest. No member shall hunt wild turkeys:

(a) By any means other than a shotgun or muzzle-loading shotgun fired from the shoulder, or a bow and arrow or a crossbow.

(b) With the aid of recorded bird calls or sounds or electrically amplified imitations of bird calls or sounds.

(c) With the aid of dogs.

(d) With live decoys for the purposes of enticing wild turkeys.

(7) Registration Required. (a) A member killing a wild turkey pursuant to this ordinance shall present the carcass for registration to a tribal registration station no later than 5:00 p.m. of the next working day following the killing.

(b) No member shall fail to inform the tribal registration station of the location, including the wild turkey management zone if applicable, where the animal was killed or to provide such other information as is required by the registering official.

(c) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.

(d) Any tribal or Commission warden authorized pursuant to Section 26.402 to enforce the provisions of this ordinance is authorized to register wild turkeys in the field provided such warden provides all registering information

to a tribal registration station no later than 5:00 p.m. of the first working day after field registration.

(8) Other Restrictions Applicable. (a) While hunting wild turkeys, no member shall fail to comply with the other restrictions applicable to hunting generally or to small game hunting specifically, such as hunting hours, which are not modified or otherwise affected by the provisions of this section.

(b) (i) No member shall hunt wild turkeys in any area designated pursuant to subs. (b)(ii) as a wild turkey reintroduction area.

(ii) the Commission's Biological Services Director, or his or her designee, is hereby authorized, upon prior consultation with the tribe, to designate certain areas within the ceded territory as wild turkey reintroduction areas in which the hunting of wild turkeys shall be prohibited.

(9) Authorization for Closure. The Commission's Biological Services Director, or his or her designee, is hereby delegated the authority to close any wild turkey management zone to turkey hunting prior to the season's closing date, provided there remains no turkeys available for harvest under this ordinance in that zone.

26.827 Small Game Hunting Caliber Restrictions.

(a) No member shall hunt any bobwhite quail, Hungarian partridge, pheasant, ruffed grouse or sharp-tailed grouse with a rifle or a shotgun loaded with a single ball or slug or shot larger than no. BB.

(b) A member may hunt ruffed grouse with a .22 caliber rim-fire rifle.

CHAPTER IX: FISH HARVESTING REGULATIONS

26.901 Definitions.

For the purpose of this chapter, the following terms shall be construed as follows:

(1) "Dip Net" means a piece of netting suspended from a round or square frame not exceeding 8 feet in diameter or 8 feet in width and 8 feet in length.

(2) "Fyke Net" or "Trap Net" means a device constructed of netting which may employ a frame, wings or wings and leads, and which directs the movement of fish through a funnel of netting into inner hearts or built-in forebays wherein the fish are trapped by their own movement.

(3) "Gillnet" means any net set to capture fish by entanglement rather than entrapment.

(4) "Hook and Line" means a rod and reel or similar device including a tip up and hand held lines, and includes trolling.

(5) "Ice Fishing" means fishing through an artificial hole in the ice.

(6) "Net" means any dip net, fyke net, gill net or seine and when used as a verb means to fish with any of these nets.

(7) "Open Water Fishing" means all fishing other than fishing through an artificial hole in the ice.

(8) "Seine" means a net of mesh no larger than 2" stretch measure, with floats at the top and weights at the bottom, such that it hangs vertically in the water, and which is drawn through the water to capture fish by encircling them rather than entangling them.

(9) "Spear" means a pole tipped with a minimum of three barbed tines which are a minimum of 4 ½ inches long and each tine having a barb extending perpendicular which is greater than 1/8 inch, and when used as a verb means reducing or attempting to reduce to possession fish by means of a hand held spear or other similar device which is directed by the spearer for the purpose of impaling the target fish, and may include the use of artificial light. When used as a verb, spear shall also mean snagging for the purpose of this code.

(10) "Set or Bank Pole" means a pole used for fishing from the banks of lakes or rivers in compliance with the provisions of Section 26.909.

(11) "Setline" means a line used for fishing in compliance with the provisions of Section 26.909.

(12) "Snagging" means attempting to take or reduce a fish to possession by hooking a fish in a place other than the mouth by the use of a hook and line or any other device which is not a net or spear.

(13) "Troll" means to fish from a motor-driven boat when the motor is running, from any boat in tow of a motor-driven boat when the motor is running, or from a sailboat when in motion.

(14) "Unattended" means beyond visual contact without the aid of a magnifying device for a period of more than ½ hour.

26.902 Open and Closed Season.

A closed season is hereby established for fishing except for the open seasons specified in this chapter.

26.903 Number of Fish Available for Harvest.

The number of any species of fish which shall be available for harvest pursuant to this code for each twelve month period from April 1 through March 31 shall be limited to the number established pursuant to the Chippewa Intertribal Agreement Governing Resource Management and Regulation of Off-Reservation Treaty Rights in the Ceded Territory.

26.904 Fishing Permits/Tags.

(1) No member shall fish pursuant to this code without possessing valid fishing permit.

(2) No member shall fish with the use of a spear, except while ice fishing, or net pursuant to this code without possessing a spearing or netting permit bearing the member's tribal identification number and valid for the date on and the location in which the member is spearing or netting.

26.905 Seasons, Methods, Bag Limits, and Size Limits.

(1) No member shall take, catch, kill or fish for any species of fish in excess of the bag limit, by means other than those enumerated, during other than the open season, below the minimum size limit, above the maximum size limit or in locations other than those established by this section.

(2) For the purposes of bag limits, "day" shall mean a continuous 24 hour period consistent with the nature of the harvest activity involved.

(3) The following table hereby establishes the open season, permissible methods, daily bag limits and size limits for the enumerated species of fish in the identified locations:

Kind of Fish and Locality	Methods Permitted	Open Season (date are inclusive)	Bag Limit	Maximum or Minimum Size Limits
(a) <u>LARGE MOUTH AND SMALLMOUTH BASS.</u>				
(i) All waters	Hook & Line ice fishing (including spearing when ice fishing).	Year Around	10 per person/day	None
(ii) All waters	Open water spearing subject to Sec. 26.906, and snagging.	Year Around	10 per person/day	None
(iii) All waters	Setline, set or bank pole subject to section 26.909	Year Around	None	None
(iv) All waters	All nets (except gill nets) subject to Sec. 26.907.	Year Around	10 per person/day	None
(v) 1000 acre or larger lakes	Gillnets subject to Section 26.908.	June 1 to March 1	10 per person/day	None
(b) <u>WALLEYE.</u>				
(i) All waters	Hook & Line, ice fishing (includes spearing when ice fishing)	Year Around	None	None
(ii) All waters	Open waters spearing subject to Sec. 26.906 and snagging.	Year Around	Established by permits issued pursuant to section 26.906.	Maximum of 20 inches except each fisher may take one fish 20-24 inches and one fish any size per permit.
(iii) All waters	All nets (except gillnets) subject to Sec. 26.907.	Year Around	None	None
(iv) All waters	Setline, set or bank pole subject to Sec. 26.909.	Year Around	None	None
(v) 1000 acre or larger lakes	Gillnets subject to Sec. 26.908.	June 1 to March 1	Established by permits issued pursuant to Section 26.908.	None

(c) NORTHERN PIKE.

(i)	All waters	Hook & line, ice fishing (including spearing when ice spearing).	Year Around	None	None
(ii)	All waters	Open waters spearing subject to Sec. 26.906 and snagging.	Year Around	10 per person/day	None
(iii)	All waters	Setline, set or bank pole subject to section 26.909.	Year Around	10 per person/day	None
(iv)	All waters	All nets (except gill nets) subject to Section 26.907.	Year Around	10 per person/day	None
(v)	1000 acre or larger lakes	Gillnets subject to Section 26.908.	June 1 to March 1	10 per person/day	None

(d) ROCK or LAKE STURGEON.

(i)	All waters	Hook & Line, ice fishing (including spearing when ice fishing).	June 1 to March 1	1 per person/year All methods	45 inch minimum size limit (except as provided in Section 26.926).
(ii)	All waters	Open water spearing and snagging subject to Section 26.926 and spearing while ice fishing.	June 1 to March 1 (except that 1 sturgeon per lake may be taken by all tribes during spring spearing and except as provided in Section 26.926).	1 per person/year All methods	45 inch minimum size limit (except as provided in Section 26.926).
(iii)	All waters	Setline, set or bank pole subject to Section 26.909.	June 1 to March 1 (except as provided in Section 26.926).	1 per person/year All methods	45 inch minimum size limit (except as provided in Section 26.926).
(iv)	All waters	All nets (except gillnets) subject to Section 26.907.	June 1 to March 1 (except as provided in Section 26.926).	1 per person/year All methods	45 inch minimum size limit (except as provided in Section 26.926).
(v)	1000 acre or larger waters	Gillnets subject to Section 26.908.	June 1 to March 1 (except as provided in Section 26.926).	1 per person/year All methods	45 inch minimum size limit (except as provided in Section 26.926).

e) MUSKELLUNGE.					
(i)	All waters	Hook & Line, ice, fishing (including spearing when ice fishing)	Year Around	None	First fish may be of any size; thereafter, at least ½ of a catch must be at least 32 inches.
(ii)	All waters	Open water spearing subject to Section 26.906; and snagging.	Year Around	Established by permits issued pursuant to Section 26.906.	First fish may be of any size; thereafter, at least ½ of a catch must be at least 32 inches.
(iii)	All waters	Setline, set or bank pole subject to Section 26.909.	Year Around	None	First fish may be of any size; thereafter, at least ½ of a catch must be at least 32 inches.
(iv)	All waters	All nets (except gillnets) subject to Section 26.907.	Year Around	Established by permits issued pursuant to Section 26.907.	First fish may be of any size; thereafter, at least ½ of a catch must be at least 32 inches.
(v)	1000 acre or larger waters	Gillnets subject to section 26.908.	June 1 to March 1	Established by permits issued pursuant to Section 26.908.	First fish may be of any size; thereafter, at least ½ of a catch must be at least 32 inches.
(f) TROUT AND SALMON (except LAKE TROUT).					
(i)	Lake Superior Tributaries	Hook & Line.	Established in Section 26.925.	10 per person/day in aggregate of which only 2 may be rainbow.	Established in Section 26.925.
(ii)	All other waters except spring ponds	Hook & Line.	June 1 to September 30	5 per person/day in aggregate.	None
(iii)	Spring ponds	Hook & Line.	First Saturday in May in September 30.	5 per person/day in aggregate.	None
(g) LAKE TROUT.					

All waters	Hook & Line, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to Section 26.906.	Year Around	2 per person/day	26 inch maximum size limit.
(h) <u>WHITE BASS, ROCK BASS, BLUEGILL, CRAPPIE, PUMPKINSEED, YELLOW PERCH, BULLHEADS, YELLOW BASS, CATFISH.</u>				
All waters	Hook & Line, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to Section 26.906; setline, set or bank pole subject to Section 26.909; all nets (excluding gillnets subject to Section 26.907).	Year Around	None	None
(ii) 1000 acre or larger lakes	Gillnets subject to Section 26.908.	Year Around	None	None
(i) <u>CISCO and WHITEFISH.</u>				
All waters	Hook & Line; ice, fishing (including spearing when ice fishing); open water spearing and snagging subject to Section 26.909; setline, set or bank pole subject to Section 26.909; all nets (excluding gillnets subject to Section 26.907).	Year Around	None; exception: Trout Lake (Vilas County) bag limits for open water spearing and netting established by permits issued pursuant to Section 26.906 and 26.907 respectively.	None
(ii) 1000 acre or larger lakes	Gillnets subject to Section 26.908.	Year Around	None; exception: Trout Lake (Vilas County) bag limits for gillnetting shall be established by permits issued pursuant to Section 26.908.	None
(j) <u>(ROUGH FISH).</u>				

()	All waters	All methods not otherwise specifically prohibited by this ordinance except gillnetting.	Year Around	None	None
(ii)	1000 acres	Gillnets subject to Section 26.908.	Year Around	None	None
(k)	PADDLEFISH or SPOONBILL CATFISH.				
All waters--No Open Season					



26.906 Spearing Regulated.

(1) Except while ice fishing, no member shall use or possess any spear on any body of water unless the member possesses a valid permit authorizing the use of a spear on that body of water.

(2) The tribal conservation department may issue an open water spearing permit to a member provided;

(a) An open season exists for the species to be fished;

(b) The permit shall be valid for no more than 1 day for walleye, muskellunge and sturgeon spearing and for no more than 3 consecutive days for the spearing of all other species;

(c) The permit establishes the respective daily bag limits for walleye and muskellunge which may be less than but shall not exceed the respective number of walleye and muskellunge which remain available for harvest from those made available pursuant to Section 26.903 in the designated body of water;

(d) The respective number of walleye or muskellunge spearing permits which may be issued at any one time shall not exceed the number of walleye or muskellunge which remain available for harvest from those made available pursuant to Section 26.903 divided by the daily bag limit;

(e) The permit designates the body of water for which the permit is valid;

(f) No spearing permit issued pursuant to this section and no netting permit issued pursuant to Section 26.907 or 26.908 shall be simultaneously valid for any body of water;

(g) The permit requires the member's signature; and

(h) The tribal conservation department may impose such other terms and conditions as it deems necessary or appropriate, including biological monitoring requirements appropriate to the level of harvest activity on any body of water.

(3) No member shall fish by the use of a spear contrary to the terms and conditions of any spearing permit which has been issued to him or her.

(4) No member shall fish with the use of a spear which does not meet the requirements of Section 26.901(9) {Spear Defined}, except that a member may spear panfish with the use of a spear with barbed tines that are smaller than otherwise required.

(5) Except while ice fishing, no member shall possess any fish harvesting devices other than a spear while engaged in spearing.

(6) No member shall share spearing equipment with any person who is not a member or a member of another Lake Superior Chippewa Band except that a person who is

a member of the spearer's immediate family or household may assist in the operation of a boat, provided that the spearer is present in that boat.

(7) The tribal conservation department shall not issue a permit for spearing a particular species of fish in a particular body of water under this section if no fish of that species remain available for harvest from those made available pursuant to Section 26.903 in that body of water.

(8) The tribal conservation department shall not issue a spearing permit under this section for a particular body of water unless a biological monitoring team will be present at that body of water to monitor the spearing harvest.

(9) Spearing in a stream shall be permitted, as identified in Sec. 26.906(10) provided that all the following conditions are met:

(a) Spearing shall be permitted only on streams or stream segments designated by the Biological Services Division of the Commission as available for open water spearing. If the designation is of a stream segment, spearing shall occur only on the portion of the stream so designated, and refers to a discrete in-stream population of a particular species, as opposed to an identifiable fish population of a lake which moves into a tributary stream to spawn;

(b) No more than four boats and 12 spearers shall be permitted to fish on any designated stream segment;

(c) No stream segment shall be speared for a particular species for more than two days in a fishing year;

(d) No member shall spear in any fish refuge on a designated stream segment;

(e) The permit requires the use of designated landings for ingress to and egress from the designated stream segment;

(f) Spearing in a designated stream segment may take place from a boat or while wading;

(g) The permit imposes the following bag limits for the species indicated:

(i) Sturgeon: One per day designated stream segment (all boats)

(ii) Muskellunge: One per boat per day

(iii) Walleye: Five per person per day;

(h) The tribal conservation department may impose such other terms and conditions on the permit as it deems necessary or appropriate, including biological monitoring requirements in addition to those required in Section 26.906(8) as deemed appropriate to the level of harvest activity.

(10) For the purpose of this section, "designated stream segment: means a discrete in-stream population of a particular species as opposed to a discrete fish population of a lake which moves into a tributary stream to spawn.

(1) Except while netting for minnows pursuant to Section 26.919(2), no member shall use or possess any dip net, fyke net or seine on any body of water unless the member possesses a valid permit authorizing the use of a dip net, fyke net or seine on that body of water.

(2) The tribal conservation department may issue a dip netting, fyke netting or seining permit, provided:

(a) An open season exists for the species to be fished;

(b) The permit shall be valid for no more than 1 day for walleye, muskellunge, and sturgeon netting, and for no more than 3 consecutive days for the netting of all other species;

(c) The permit establishes the respective daily bag limit for walleye and muskellunge which may be less than but shall not exceed the respective number of walleye and muskellunge which remain available for harvest from those made available pursuant to Section 26.903 in the designated body of water;

(d) The total number of walleye and muskellunge netting permits issued under this section shall not exceed the number of walleye or muskellunge which remain available for harvest from those made available pursuant to Section 26.903 divided by the daily bag limit;

(e) Netting for all species with dip nets, fyke nets or seines is limited to one body of water for the duration of the permit;

(f) No netting permit issued pursuant to this section, no gill netting permit issued pursuant to Section 26.908 and no spearing permit issued pursuant to Section 26.906 shall be simultaneously valid for any body of water;

(g) The permit shall require that all nets authorized comply with the marking requirements of Section 26.908(9) and the safety requirements of Section 26.908 (10) and (11);

(h) The permit requires the member's signature;

(i) Permits issued pursuant to Section 26.919 (Bait Dealers Regulated) shall be governed by the provisions of that section; and

(j) The tribal conservation department may impose such other terms and conditions as it deems necessary or appropriate, including biological monitoring requirements appropriate to the level of harvest activity on any body of water.

(3) No member shall fish by the use of a dip net, fyke net or seine contrary to the terms and conditions of any netting permit which has been issued to him or her.

(4) No member shall fish with the use of a dip net, fyke net or seine which does not meet the requirements of Section 26.901(1)(Dip Net Defined), Section 26.901(2)Fyke Net Defined), or Section 26.901 (8)(Seine Defined).

(5) Except while netting for minnows pursuant to Section 26.919, no member shall possess any fish harvesting device other than a dip net, fyke net or seine while engaged in netting under this section.

(6) No member shall share netting equipment authorized under this section with any person who is not a member or a member of another Lake Superior Chippewa Band, except that a person who is a member of the netter's immediate family or household may assist in the placing or lifting of any net, provided that the netter is physically present during the activity.

(7) The tribal conservation department shall not issue a permit for netting a particular species of fish on a particular body of water under this section if no fish of that species remain available for harvest from those made available pursuant to Section 26.903 in that body of water.

26.908 Gillnets Regulated.

(1) No member shall use or possess any gillnet on any body of water unless the member possesses a valid permit authorizing the use of a gillnet on that body of water.

(2) The tribal conservation department may issue a gillnetting permit for any lake except for the southern basin of Trout Lake (Vilas County), provided:

(a) An open season exists for the species to be fished;

(b) The permit shall be valid for no more than 1 day for any species;

(c) The permit establishes the respective daily bag limits for walleye and muskellunge which may be less than but shall not exceed the respective number of walleye and muskellunge which remain available for harvest from those made available pursuant to Section 26.903 in that lake;

(d) Except as provided in subs. (14) any number of permits may be issued at any one time for any lake but the total length in feet of all gillnets authorized for all permits on any one lake shall not exceed the number of walleye remaining available for harvest in that lake multiplied by 10;

(e) Gillnetting for all species is limited to one body of water for the duration of the permit;

(f) No gillnetting permit issued to this section, no spearing permit issued pursuant to Section 26.906 or netting permit issued pursuant to Section 26.907 shall be simultaneously valid for any body of water;

(g) The permit requires the member's signature;

(h) Except as provided in subs. (14) the permits establish the maximum length in feet and the mesh size of the gillnet which is authorized; determined from the spring walleye population average length and the following chart:

SPRING LENGTH
SIZE (STRETCH)

MAXIMUM ALLOWABLE MESH

13.5"	2.5"
13.5"-16.49"	3.0"
16.5"-18.49"	3.5"
18.5"-20.49"	4.0"
+ 20.5"	4.5"

(i) No gill netting shall be authorized for any body of water unless the spring average length of walleye has been determined that year for that body of water. In determining the spring average length of walleye, data gathered by the use of any appropriate gear, such as fyke nets, electroshocking or spearing, may be utilized provided that an accurate assessment of walleye size can be accomplished.

(j) The tribal conservation department or the Commission may impose such other terms and conditions as it deems appropriate or necessary, including such biological monitoring requirements appropriate to the level of harvest activity on any body of water.

(3) No member shall fish by the use of a gillnet contrary to the terms and conditions of any gillnetting permit which has been issued to him or her.

(4) No member shall fish with the use of a gillnet which does not meet the requirements of Section 26.901(3) {Gillnet Defined}.

(5) No member shall possess any fish harvesting device other than a gillnet while engaged in gillnetting under this section.

(6) No member shall share gillnetting equipment authorized under this section with any person who is not a member or a member of another Lake Superior Chippewa Band, except that a person who is a member of the netter's immediate family or household may assist in the placing or lifting of any gillnet, provided that the netter is present during the activity.

(7) Except as provided in subs. (14), the tribal conservation department shall not issue a permit for gillnetting a particular body of water under this section if no walleye remain available for harvest from those made available pursuant to Section 26.903 in that body of water.

(a) No gillnetting under this section may take place on that body of water until the following fishing year; and

(b) The tribal conservation department shall not issue permits for gillnetting on that particular body of water for the remainder of the fishing year.

(8) In imposing appropriate mesh size restrictions on a gillnet permit, the tribal conservation department shall consult with the Commission's Biological Services Division and any size restriction shall take into account the length distribution of the adult fish population in the lake to be fished.

(9) No member shall fish with any gillnet unless the gillnet is marked with two flags marking the inside of the net and one flag marking the outside. The flag poles shall be three feet or more above the water and have a diameter of two and half inches or less. The flag shall be white and ten inches square or larger. Each pole shall have attached

securely to it an identification tag issued by the Tribe showing the member's tribal affiliation and tribal identification number.

(10) No member shall set a gillnet in open water with a topline within 3 feet of the water's surface unless the gillnet is buoyed at 500 foot intervals.

(11) No member shall set a gillnet in a manner in which any part of the net is in water less than ten feet in depth. Nor shall a member set any gillnet in an unsafe manner which shall unreasonably expose boaters and other users of the lake to a foreseeable risk of imminent bodily harm or property damage, or contrary to such other restrictions as the tribal conservation department may require.

(12) No member shall remove a gillnet from a lake without first removing from the gillnet and returning all crayfish to the water or killing all crayfish entangled in the gillnet.

(13) No member shall fail to lift any gillnet at least two times in each continuous 24 hour period during which the net is set, or more frequently as water temperature may require so as to avoid the spoilage of any fish taken by the net.

(14) Notwithstanding the provisions of subs. (2)(d) and (h) and (7), the tribal conservation department may issue a permit for gillnetting ciscos (tulibeas) on such terms and conditions as it deems necessary or appropriate, provided that at a minimum all other provisions of this section shall apply to cisco gillnetting permits.

26.909 Setlines and Set or Bank Poles Regulated.

(1) No member shall fish with or set any setline or set or bank pole except in accordance with the following provisions:

(a) A maximum of 20 set or bank poles and 1 setline may be used in no more than 3 bodies of water at any one time.

(b) Setlines must be marked at one end with a white flag ten inches square or larger held by a pole three feet or more above the surface of the water or bank. The pole may not be more than two and a half inches in diameter, and, if a buoy is used to hold the pole, it shall be round or octave in shape and have a diameter of fifteen inches or less. The pole may not be placed in the main channel of any navigable waterway.

(c) Each set or bank pole and each setline shall have attached securely to it an identification tag issued by the Tribe showing the member's tribal affiliation and tribal identification number.

(d) Setlines or set or bank poles shall not be equipped with stainless steel hooks.

(e) A set or bank pole may not be equipped with more than one line which shall not have more than 2 hooks.

(f) A setline shall not have more than 10 hooks.

(g) Each set or bank pole and setline shall be lifted and the catch removed at least once each day following the day it was set.

(h) Set or bank poles and setlines may only be set, attended or lifted from one hour before sunrise to one-half hour past sunset.

(i) The tribal conservation department may impose such other terms and conditions as it deems appropriate or necessary, including such biological monitoring requirements appropriate to the level of harvest activity on any body of water.

(2) No member shall fish with any set or bank pole or setline which does not meet the requirements of Section 26.901(10) {Set or Bank Pole Defined} or Section 26.901(11) {Setline Defined}.

(3) No member shall possess any fish harvesting device other than a set or bank pole or setline while setting, lifting or attending a set or bank pole or setline.

(4) No member shall share any set or bank pole or setline with any person who is not a member or a member of another Lake Superior Chippewa Band, except that a person who is a member of the fisher's immediate family or household may assist in the placing or lifting of any set or bank pole or setline, provided that the fisher is present during the activity.

26.910 Designated Landings May be Required.

(1) In issuing a spearing or netting permit pursuant to Sections 26.906, 26.907 or 26.908, the tribal conservation department may require permittees to use only designated landings for entering upon and exiting from a body of water.

(2) When so required, no member shall enter upon or exit from a body of water except at such landings designated by the tribal conservation department pursuant to subs. (1).

(3) Notwithstanding the provisions of subs. (1) and (2), a member may exit from a body of water at a location other than a designated landing when necessitated by weather conditions, considerations of personal safety or other appropriate circumstances.

26.911 Reporting and Monitoring.

(1) No member shall fail to complete catch reports in the manner required by the tribal conservation department or the Commission's Biological Services Division or to otherwise fail to comply with any catch monitoring requirements imposed by either of those agencies with respect to any fishing method authorized by this chapter.

(2) The tribal conservation department shall issue no further permits under this chapter to any member who has failed to complete and return any creel census questionnaire or other catch report required by subs. (1).

(3) In the event that a member fails to report or return a census questionnaire, the tribal conservation department or the Biological Services Division shall count the total amount of fish allowed by that member's permit shall count against the tribal

quota/harvest until such report or census questionnaire is completed and returned in compliance with this section.

26.912 Open Water Hook & Line Fishing Regulated.

Except as provided in Section 26.909 {Setlines and Set or Bank Poles Regulated}, no member shall:

- (1) Engage in open water fishing by the use of hook and line with more than six lines with a maximum of two hooks or lures per line; or
- (2) Engage in open water fishing by the use of any unattended hook and line.
- (3) Nothing in this code shall be construed to prohibit any member from trolling on any body of water while engaged in open water fishing by the use of hook and line.

26.913 Ice Fishing Regulated.

(1) No member shall ice fish by the use of hook and line through a hole larger than 12 inches in diameter.

(2) No member shall ice fish by the use of a spear through a hole larger than 24 inches by 36 inches.

(3) No member shall ice fish with unattended lines except in compliance with the following provisions:

(a) All unattended lines shall have attached a single iron hook with a maximum 1/2 inch point to shank gape;

(b) All unattended lines shall be of a biodegradable material and shall be securely anchored so as not to be dislodged by a hooked fish;

(c) All unattended lines shall be tagged with a valid identification tag obtained from the tribe indicating the member's tribal affiliation and tribal identification number;

(d) Any member fishing with unattended lines shall, prior to doing so, inform the tribal conservation department of his or her name, address, phone number, and lakes upon which the member intends to fish with unattended lines;

(e) Each unattended line shall be checked at least once every 24 hours unless severe weather conditions render it impractical to do so;

(f) No more than a total of 30 attended or unattended lines shall be used in no more than 3 lakes at any one time;

(g) All holes used for unattended lines shall be marked so as to be visible to vehicular traffic, and all holes over twelve inches shall be marked in a manner which will identify them as a hazard when unused.

(4) No member shall ice fish within an ice fishing house or other enclosure, unless the enclosure is equipped with a latch which will permit the door to be readily opened from the outside at all times while the house is occupied.

(5) No member shall place, maintain or use a house or other enclosure for ice fishing on any body of water unless the owner's name and address is clearly displayed on the outside of the house.

(6) No member shall fail to remove an ice fishing house or other enclosure from any body of water on or before March 15 except that portable shelters may be used while ice fishing after that date provided the portable shelter is removed daily from the ice.

(7) No member shall share ice fishing gear, including any spear, with any person who is not a member or a member of another Lake Superior Chippewa Band, except that a person who is a member of the fisher's immediate family or household may assist in the setting or lifting of unattended lines, provided that the fisher is physically present during that activity, and except that any person may occupy an ice fishing house or other enclosure, provided that such person is not in any way assisting with or sharing the member's fishing equipment.

26.914 Possession Limit.

(1) (a) Except as provided in subs. (3) and (4), no member shall have in his or her possession any number of fresh fish of any species greater than double the daily bag limit of that species.

(b) For the purposes of this section, "fresh" means unspoiled and never frozen once removed from a body of water.

(2) Except as provided in subs. (3) and (4), no member shall possess more than one daily bag limit of any species of fish while on any body of water or while fishing unless all fish in excess of the daily bag limit have been tagged in accordance with Section 26.310 as having been harvested on-reservation.

(3) The possession limits of this section shall not apply to fresh walleye lawfully taken pursuant to permits issued under Sections 26.906 (Spearing), 26.907 (Netting), or 26.908 (Gillnetting) when such walleye have been monitored and counted as the permittee leaves a body of water except that no member shall possess more than the walleye daily bag limit established by a permit for any body of water while on that body of water unless all walleye in excess of the daily bag limit have been tagged in accordance with Section 26.310 as having been harvested on-reservation.

(4) The possession limits established by this section shall not apply to fresh fish tagged for sale pursuant to Section 26.921.

26.915 Sturgeon Tagging Required.

(1) No member shall fail to register with the tribal conservation department any sturgeon harvested pursuant to this code prior to 5:00 p.m. of the next working day following the harvest.

(2) Upon registering a sturgeon, the registering official shall firmly affix a registration tag to the carcass.

26.916 Incidental Take by Gillnet.

(1) No member shall retain possession of any species of fish taken in excess of the daily bag limit by the use of a gillnet authorized by Section 26.908 and no member shall fail to either:

(a) Return to the water any such fish which appears capable of surviving;
or

(b) Transfer possession of such fish as soon as practicable to the tribal conservation department or to a person authorized to enforce this code.

(2) Any such fish transferred pursuant to subs. (1) (b) shall be disposed of by the tribe for charitable purposes but shall not be returned to the member or his or her immediate family.

26.917 Live Bait Restrictions.

No member shall use as live bait while fishing pursuant to this code: carp, goldfish, redhorse, fresh water drum, burbot, bowfin, garfish, buffalo fish, lamprey, alewife, gizzard shad, smelt, goldeye, mooneye, carpsucker, quillback, and crayfish.

26.918 Fishing in Certain Locations Prohibited or Restricted.

(1) No member shall fish at any time within 50 yards of a tribal, Commission or Wisconsin Department of Natural Resources assessment net or its leads.

(2) No member shall fail to comply with the closures and other restrictions with respect to fish refuges and fish management experimental bodies of water established pursuant to Section 26.327 (Wild Animal Refuges Established).

26.919 Bait Dealers Regulated.

(1) No member shall set, use or operate any net or other device for taking, catching or killing minnows except as provided by this section.

(2) Any member may take or possess less than 1200 minnows by the use of any net authorized by Section 26.907 {Dip Nets, Fyke Nets and Seines} without a permit provided that while netting for minnows:

(a) No member shall remove or destroy vegetation, logs, or other habitat features;

(b) No member shall handle, transport or hold minnows except in a manner which will reasonably ensure the minnows will be kept alive and healthy; and

(c) No member shall fail to promptly return unharmed to the water all minnows not kept and all game fish caught by a net.

(3) No member shall take or possess more than 1200 minnows at any time unless the member possesses a permit issued pursuant to sub. (4).

(4) The tribal conservation department may issue a permit to a member authorizing the taking or possession at any time more than 1200 minnows on the following terms and conditions:

(a) A permit shall include the member's name, address, tribal affiliation and tribal identification number;

(b) A permit shall specify the waters where the permit is valid and the number of nets or other devices which may be utilized at any time;

(c) A permit shall describe the nets or other devices authorized;

(d) A permit may be valid for no more than 12 months from the date of issuance;

(e) A permit shall require the member to transport, handle and hold minnows in a manner which will reasonably ensure the minnows will be kept alive and healthy;

(f) A permit shall require all minnows not kept and all game fish caught by the nets or other devices to be promptly returned unharmed to the water;

(g) A permit shall prohibit the removal or destruction of vegetation, logs and other habitat features; and

(h) The tribal conservation department may impose such other terms and conditions as it deems appropriate or necessary, including biological monitoring requirements appropriate to the level of harvest activity on any body of water.

(5) No member shall take or attempt to take minnows contrary to the terms and conditions of any permit issued under subs. (4).

(6) Nothing in this Code shall be construed to prohibit a member from selling to any person minnows lawfully taken pursuant to this section.

26.920 Sale of Game Fish.

(1) (a) The provisions of this section and Section 26.921 shall not take effect until such time as the tribe's governing body declares them to be effective by a subsequent resolution.

(b) No member shall sell any game fish prior to the effective date as declared by the tribe's governing body pursuant to subs. (1) (a).

(2) At such time as the provisions of this section are declared effective pursuant to subs. (1) (a), no member shall sell to any person any game fish or part thereof lawfully harvested pursuant to this code, except in accordance with the provision of Section 26.921 and in accordance with the terms and conditions of the resolution of the Tribe's governing body.

(3) Nothing in this Code shall be construed to prohibit any member from selling to any person any fish lawfully harvested pursuant to this Code which is not a game fish.

26.921 Sale of Game Fish Regulated.

(1) The purpose of this section is to establish the regulations governing the sale of game fish pursuant to Section 26.920(2).

(2) The tribal conservation department may issue sequentially numbered tags which authorize a member to sell a game fish lawfully harvested pursuant to this Code on the following conditions:

(a) Each whole game fish sold must be tagged prior to being sold; or

(b) If filleted prior to sale, all fillets from a game fish must be tagged together or otherwise packaged together with one tag prior to sale.

(3) No member shall sell a game fish or any part thereof pursuant to Section 26.920(2) unless such game fish or parts thereof have been properly tagged in accordance with subs.(2).

26.922 Harvest of Spawn and Introduction of Fish Regulated.

(1) No member shall stock, introduce, place, transfer or otherwise release any fish or the spawn of any fish into any body of water, except for returning or releasing a fish into a body of water from which it came.

(2) (a) Except in accordance with the provisions of sub.(2)(b), no member shall harvest the spawn of any fish unless the carcass of the fish is legally harvested pursuant to this code.

(b) (i) the tribal conservation department may issue a permit to a member for harvesting only the spawn of any fish without harvesting the carcass of the fish upon such terms and conditions as it deems necessary or appropriate.

(ii) no member shall fail to comply with the terms and conditions of any permit issued pursuant to this section.

(3) Nothing in this section shall preclude the Tribe, tribal conservation department or the Commission's Biological Services Division, or their employees or agents, from stocking fish in any body of water pursuant to a management plan.

26.923 Authorization for Closure.

The Commission's Biological Services Division is hereby delegated the authority to close any body of water to fishing by the use of a spear or net for walleye and/or muskellunge prior to the season's closing date, provided no walleye or muskellunge remain available for harvest in that body of water from those made available pursuant to Section 26.903.

26.924 Compliance with Permits Issued by Other Tribes.

No member shall fish pursuant to a spearing or netting permit issued by another Band of Lake Superior Chippewa Indians in a manner which violates the provisions of that Tribe's law governing the activity authorized by the permit.

26.925 Lake Superior Tributary Regulations.

The following seasons and size limits are hereby established for the identified Lake Superior Tributaries:

1) Generally. Lake Superior tributary streams except the Brule River and its tributaries:

<u>Season</u>	<u>Minimum Size Limit(inches)</u>
First Saturday in May at 5:00 a.m. to September 30	6

2) Brule River. The Brule River and its tributaries:

<u>Season</u>	<u>Minimum Size Limit(inches)</u>
First Saturday in May at 5:00 a.m. to September 30	Brook Trout 8; Brown Trout 10; Rainbow Trout 12; Salmon 12

3) Special Early and Extended Seasons.

a) Generally.

- (i) the special early and extended open seasons for trout and salmon set forth in this subsection shall apply to the tributary streams identified by county in subsection (ii):

<u>Season</u>	<u>Minimum Size Limits(inches)</u>
Saturday nearest April 1 to the day before the first Sunday in May and October 1 to November 15	10

(ii) Tributaries.

Ashland County: Off-reservation portion of the Bad River to Copper Falls; Potato River from its mouth upstream to Guerney Falls; Off-Reservation portion of the White River upstream to the White River Dam; Brunsweller and Marengo rivers upstream to Hwy 13.

Bayfield County: Cranberry River from its mouth upstream to the Lenawee Road; north fork Fish Creek from its mouth upstream to the junction with Pine Creek; Flag River from its mouth upstream to the junction with the east fork of the Flag River; Iron River from its mouth upstream to Oreinta Dam; Sioux River from its mouth upstream to Big Rock Falls; Siskowitt River from its mouth upstream to second bridge.

Douglas County: Amnicon River from its mouth upstream to Amnicon Falls; Middle River from its mouth upstream to U.S. Hwy. 2; Nemadji river from its mouth

upstream to Great Northern Railroad Bridge; Black River from its mouth upstream to Big Manitou Falls; Poplar River from its mouth upstream to U.S. Hwy. 2; St. Louis River from its mouth upstream to the Wisconsin-Minnesota State line.

Iron County. Graveyard Creek from its mouth upstream to U.S. Hwy. 2; Oronto Creek from its mouth upstream to its source; Parker Creek from its mouth upstream to its source.

(b) Brule River Special Early and Extended Seasons. The following restrictions shall apply to the special early and extended open seasons on the Brule River from its mouth upstream to the U.S. Hwy. bridge crossing:

(i) Seasons and Size Limits.

<u>Season</u>	<u>Minimum Size Limit (inches)</u>
Saturday nearest April 1 to the day before the first Saturday in May and October 1 to November 15.	Brook Trout 8; Brown Trout 10; Rainbow Trout 12; Salmon 12

(ii) Special Restrictions. During the special early and extended seasons on the Brule River as provided in subsection (i), fishing is prohibited one-half hour after sunset to one-hour before sunrise except when lawfully fishing for smelt.

26.926 Special Sturgeon Regulations.

(1) The regulations set forth in this Section shall supersede the season and size restrictions provided by Section 26.905(3)(d).

(2) On lakes with adequate population estimates for sturgeon which are subject to a quota management system in accordance with the provisions of Section B.1.i. of the Stipulation of fish species referenced in Section 26.905(4), there shall be no minimum size limit or seasonal restrictions and the tribal conservation department may issue permits authorizing harvest by tribal members accordingly provided total tribal harvest on such lakes is limited to a quota consistent with the Stipulation.

26.927 Alteration of Fish Size Prohibited.

While open-water spearing or netting, no person shall cut, clip, or otherwise alter the size of any fish before the fish is counted by a biological monitoring team. This provision does not apply to fish whose length has been altered as an incidental result of the act of spearing or netting, as a result of natural causes, or as part of a biological survey or assessment.

CHAPTER X: MIGRATORY BIRD HARVESTING REGULATIONS

26.1001 Definitions.

For the purposes of this chapter, the following terms shall be construed as follows:

(1) "Bag Limits" mean:

(a) "Aggregate bag limit" means a conditions of taking in which two or more usually similar species may be bagged (reduced to possession) by the member in predetermined or unpredetermined quantities to satisfy a maximum take limit.

(b) "Daily bag limit" means the maximum number of migratory birds of a single species or combination (aggregate) of species permitted to be taken by one member in any one day during the open season.

(c) "Aggregate daily bag limit" means the maximum number of migratory birds permitted to be taken by one member in any one day during the open season when such member hunts for more than one species for which a combined daily bag limit is prescribed for any one species.

(d) "Possession limit" means the maximum number of migratory birds of a single species or a combination of species permitted to be possessed by any one member when lawfully taken in the ceded territory.

(2) "Migratory Bird" means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in 50 CFR Section 10.13, or which is a mutation or a hybrid or any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or in part of any part, nest or egg thereof.

(3) "Migratory Bird Preservation Facility" means:

(a) Any person who, at his residence or place of business and for hire or other consideration; or

(b) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or

(c) Any hunting club which, in the normal course of operations: receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage, or shipment.

(4) "Personal abode" means a member's principal or ordinary home or dwelling place, as distinguished from one's temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, or any hotel, motel, or rooming house used during a hunting, pleasure or business trip.

(5) "Take" means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture or collect.

(6) "Waterfowl" means any migratory bird of the family anatidae, including ducks, geese, coots, rails, gallinules, brant, and mergansers.

26.1002 Closed Season.

(1) A closed season is hereby established for the hunting of migratory birds except for the open seasons specified in Section 26.1003.

(2) Except as otherwise expressly provided by this ordinance, no member shall take any migratory off-reservation during the closed season for that animal.

26.1003 Seasons and Annual Harvest Regulations.

(1) Upon publication in the Federal Register of the U.S. Fish and Wildlife Service Final Rule establishing federal regulations in response to the Tribe's proposal pursuant to the Service's Interim Guidelines described in the June 4, 1985, Federal Register (50 FR 23467), all such regulations as to season, daily bag and possession limits, and other conditions, shall be and hereby are incorporated into this ordinance, as if fully set forth in their entirety herein, and shall constitute tribal regulations governing member off-reservation migratory bird hunting for the seasons so established.

(2) No member shall take or possess migratory birds or otherwise engage in any activity contrary to the federal regulations incorporated into this ordinance pursuant to this section on a season-by-season basis.

(3) Any violation of such annual federal migratory bird regulations incorporated herein shall be deemed a violation of this ordinance, and shall be subject to the jurisdiction of the tribal court pursuant to the provisions of this ordinance.

26.1004 Daily Bag Limits and Possession Limits.

(1) No member shall take any migratory bird in any one day in excess of the daily bag limit, whichever applies, as established by this chapter.

(2) No member shall possess migratory birds taken off-reservation in excess of the possession limits for that species established by this chapter.

(3) When a daily bag limit or aggregate daily bag limit is established in terms of "points", the daily bag limit or aggregate daily bag limit, whichever applies, is reached when the point value established by this chapter of the last migratory bird taken during that day reached or exceeds the maximum number of points allowed for that day.

(4) For purposes of enforcing bag and possession limits under this chapter, all migratory birds in a member's possession or custody on ceded lands will be considered to have been taken on those lands, unless tagged by a tribal, commission or state conservation warden was taken on reservation. No migratory bird falling on reservation lands will be counted as part of a bag or possession limit.

26.1005 Methods.

(1) Unless expressly modified by a U.S. Fish and Wildlife Service Final Rule incorporated into this ordinance pursuant to Section 26.1003(1), migratory birds for which open seasons are prescribed may be taken by any method except those prohibited in this section.

(2) No member shall take migratory birds:

(a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece fuller, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(c) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

(d) From or by any means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(e) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased: Provided, that a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power;

(f) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this section for any member to take migratory waterfowl in an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;

(g) By the use or aid of recorded or electrically amplified birds calls or sounds, or recorded or electrically amplified imitations of birds calls or sounds;

(h) By the aid of baiting, or an or over any baited area. As used in this subsection, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked or unshucked corn, wheat, other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this section shall prohibit:

(i) the taking of all migratory birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(ii) the taking of all migratory birds, except waterfowl, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: Provided, that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown;

(i) While possessing shotshells loaded with shot other than steel shot or such shot approved as non-toxic by the Director of the U.S. Fish and Wildlife Service, provided that this restriction applies only to the taking of ducks, geese (including brant), swans and coots and any species that make up aggregate bag limits during concurrent seasons with the former;

(j) With shot larger than size T; or

(k) By the use or aid of any motor driven land, water, or air conveyance, or any sailboat, used for the purpose of or resulting in the concentrating, stirring up, driving, or rallying any migratory bird.

26.1006 Shooting Hours.

No member shall take migratory birds except during the lawful hunting hours established by the U.S. Fish and Wildlife Service Final Rule incorporated into this ordinance pursuant to Section 26.1003(1)

26.1007 Wanton Waste of Migratory Birds.

No member shall kill or cripple any migratory bird pursuant to this chapter without making a reasonable effort to retrieve the bird, and retain it in his or her actual custody, at the place where taken or between that place and any of the following places:

- (1) The member's automobile or principle means of land transportation;
- (2) The member's personal abode or temporary or transient place of lodging;
- (3) A migratory bird preservation facility as defined by Section 26.1001(2) of this ordinance;
- (4) A post office; or
- (5) A common carrier facility.

26.1008 Decoys.

No member shall take any migratory bird with decoys which are:

- (1) Placed beyond 200 feet from the location in which the member is located;
- (2) Placed in the water prior to one hour before opening of shooting hour; or

- (3) Left in the water more than 20 minutes after the close of shooting hours.

26.1009 Structures.

No member shall hunt migratory birds from any publicly owned pier, dam, dock, breakwater, or similar man-made structure where the prohibition of such hunting is clearly posted.

26.1010 Duck Blinds.

- (1) No member shall establish a permanent duck blind on state property, including the bed of any navigable lake, prior to 7 days before the migratory bird season or leave it established beyond 7 days after the close of the season.

- (2) No member shall leave on state property during the season any blind unless permanently bears the name (in lettering one-inch square or larger) of the member who constructed the blind.

26.1011 Possession Regulated.

- (1) Prohibited if taken in violation of section 26.1005-26.1010. No member shall at any time, by any means, or in any matter, possess or have in custody any migratory bird or part thereof, taken in violation of any portion of Sections 26.1006-26.1010 of this ordinance.

- (2) During closed season. No member shall possess any freshly killed migratory bird taken off of the reservation during the closed season.

- (3) Possession limit. No member shall possess more migratory birds taken in the ceded territory than the possession limit or the aggregate possession limit, whichever applies. This section applies only to transportation. Possession limits for the purposes of this subsection do not include birds which are cleaned, dressed, and at the member's primary residence.

- (4) Opening day of a season. No member on the opening day of the season shall possess any migratory bird freshly killed off of the reservation in excess of the daily bag limit, or aggregate daily bag limit, whichever applies.

- (5) Field possession limit. No member shall possess, have in custody, or transport more than the daily bag limit, or aggregate daily bag limit, whichever applies, of migratory birds, tagged or not tagged, at or between the place where taken and any of the following places:

- (a) The member's automobile or principle means of land transportation;
- (b) The member's personal abode or temporary or transient place of lodging;
- (c) A migratory bird preservation facility as defined in Section 26.1001(3) of this ordinance;
- (d) A post office; or

(e) A common carrier facility.

(6) Tagging requirements. No member shall or leave any migratory bird at any place (other than his or her personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such bird has a tag attached, signed by the member, stating his or her address, the total number and species of birds, and the date such birds were killed. Migratory birds being transported in any vehicle as the personal baggage of the processor shall not be considered as being in storage or temporary storage.

(7) Custody of birds of another. No member shall receive or have in custody any migratory bird belonging to another person unless such bird has been tagged as required by subs.(6).

(8) Possession of live birds. Every migratory bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become part of the daily bag limit. No member shall at any time, or by any means, possess or transport live migratory game birds taken pursuant to this ordinance.

(9) Termination of possession. Subject to all other requirements of this chapter, the possession of any migratory bird taken by any member shall be deemed to have ceased when such bird has been delivered by him or her to another person as a gift; or have been delivered by him or her to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the member.

(10) Gift of migratory bird. No member shall receive, possess, or give to another, any freshly killed migratory birds as a gift, except at the personal abode of the donor or donee, unless such birds have a tag attached, signed by the member who took the birds, stating such member's address, the total number and species of birds and the date such birds were taken.

26.1012 Transportation Regulated.

(1) Prohibited if taken in violation of sections 26.1005-26.1010. No member shall at any time, by any means, or in any manner, transport any migratory bird of part thereof, taken in violation of any provision of Section 26.1005-26.1010 of this ordinance.

(2) Transportation of birds of another. No member shall transport any migratory bird belonging to another person unless such bird is tagged as required by Section 26.1011(6) of this ordinance.

(3) Species identification requirement. No member shall transport within the United States any migratory birds, except doves and band-tailed pigeons (*Columba fasciata*), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place taken until they have arrived at the personal abode of the possessor or at a migratory bird preservation facility as defined in Section 26.1001(3).

(4) Marking package or container. No member shall transport by the Postal Service or a common carrier migratory birds unless the package or container in which

such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

26.1013 Exportation Regulated.

(1) Prohibited if taken in violation of sections 26.1005-26.1010. No member shall at any time, by any means, or in any manner, export or cause to be exported, any migratory bird or part thereof, taken in violation of any provision of Sections 26.1005-26.1010 of this ordinance.

(2) Species identification requirement. No member shall export migratory birds unless one fully feathered wing remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

(3) Marking package or container. No member shall export migratory birds via the Postal Service or common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

26.1014 Permit Required.

No member shall hunt migratory birds pursuant to this ordinance without possessing a valid migratory bird hunting permit issued by the Tribe.

26.1015 Closed Areas.

No member shall fail to comply with the closures and other restrictions with respect to wildlife refuges and closed areas as established pursuant to Section 26.327 of this ordinance.

26.1016 Authorization for Emergency Closure.

The Commission's Biological Services Director, or his or her designate, is hereby delegated the authority to close or temporarily suspend any season in any particular locale to tribal off-reservation migratory bird hunting provided:

(1) That a continuation of the season would impact significantly the migratory bird resource; and

(2) In the case of a temporary suspension, notice is provided to members of the date and time when the season may be resumed.

26.1017 Enforcement by U.S. Fish and Wildlife Service Personnel.

Any Memorandum of Agreement or other such document by which the Tribe and the U.S. Fish and Wildlife Service establish the conditions upon which the Service's personnel may enforce the provisions of this ordinance is hereby incorporated into this ordinance as if set forth in its entirety herein.

26.1018 Assistance by Non-Members.

No person who is not a member or a member of another signatory tribe shall assist a member in the hunting of migratory birds pursuant to this ordinance except as provided in Section 26.330 {Permissible Conduct/Assistance by Non-Members}.

26.1019 Sale of Migratory Birds Parts Regulated.

(1) No member shall sell the meat or any migratory bird taken in the ceded territory.

(2) Nothing in this ordinance shall be construed to prohibit a member from selling the feathers of migratory waterfowl (ducks, geese, brant and swans) lawfully harvested pursuant to this ordinance for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses except that:

(a) No member shall purchase or sell, or offer to purchase or sell, for millinery or ornamental use the feathers of migratory birds taken in the ceded territory; and

(b) No member shall purchase or sell, or offer to purchase or sell, mounted specimens or migratory birds taken in the ceded territory.

**CHAPTER XI: TIMBER HARVESTING REGULATIONS
(RESERVED)**

**CHAPTER XII: MISCELLANEOUS WILD PLANT HARVESTING
REGULATIONS**

26.1201 Purpose.

The purpose of this chapter is to regulate the harvest of wild plants, or any parts thereof, which are not regulated pursuant to Chapter V {Wild Rice Harvesting Regulations} or Chapter XI {Timber Harvesting Regulations}.

26.1202 Definitions.

For this purpose of this chapter, the following terms shall be construed to apply as follows:

(1) "Gathering" means cutting, rooting up, severing, injuring, destroying, removing, or carrying away any wild plant or parts thereof.

(2) "Ginseng" means the roots, seeds or other parts of wild American ginseng (Panax quinquefolium or Panax quinquefolius).

(3) "Landowner" means any owner or other entity responsible for the management of any public land.

(4) "Public Lands" means those lands, including the beds of any streams and flowages, located within the ceded territory owned by the State of Wisconsin or any of its political subdivisions or Departments.

(5) "Wild Plant" means any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem, and includes endangered or threatened plant species, as defined in Section 26.201(4) of this ordinance, and ginseng, but excludes for the purposes of this chapter timber and wild rice.

(6) "Prairie plants," "Prairie Plant Seeds," and "Marsh Hay" shall be defined as and shall have the meaning agreed to by the Tribe and the Wisconsin Department of Natural Resources as formulated by the Wild Plant Management and Policy Committee established pursuant to the Stipulation for Black Bear, Migratory Birds and Wild Plants entered in the case Lac Courte Oreilles Band v. State of Wisconsin, Case No. 74-C-313 (United States District Court, Western District of Wisconsin). Once formulated, the definitions of these terms shall be and hereby are incorporated by reference into this section.

26.1203 Wild Plant Harvesting Permits.

(1) Generally. Except as provided in subs. (2) {Ginseng, Prairie Plants and Marsh Hay Gathering Permits}, no permit shall be required for the gathering of any wild plant, or any part, fruit, seed or berry thereof, on public land.

(2) Ginseng, Prairie Plants and Marsh Hay Gathering Permits.(a) The tribal conservation department is authorized to issue permits which authorize the harvest of ginseng, prairie plants, prairie plant seeds and marsh hay to a member or a group of members in accordance with the provisions of this section.

(b) (i) A gathering permit is required for the gathering of more than forty-eight (48) prairie plants, two (2) ounces of prairie plant seeds, or more than two hundred (200) pounds of marsh hay during a 24 hour period with period. Otherwise a gathering permit is not required for these plants.

(ii) no member shall harvest more than forty-eight (48) prairie plants, two (2) ounces of prairie plant seeds, or more than two hundred (200) pounds of marsh hay during a 24 hour period without a valid gathering permit issued pursuant to this section.

(c) No ginseng gathering permit shall be issued and no member shall gather ginseng from November 1 through August 31.

(d) A gathering permit issued pursuant to this section shall:

(i) identify the permittee or permittees, including the name, address and tribal affiliation of all members authorized by the permit;

(ii) identify the amount and general location of the plants, or parts thereof, to be gathered; and

(iii) require that members authorized by the permit must possess a duplicate while engaged in the gathering activity.

(e) A gathering permit issued pursuant to this section may:

- (i) establish limits on the quantity of the plants which may be gathered;
- (ii) define the specific area or areas where the gathering may occur;
- (iii) define or limit the methods which may be employed to gather the plants; and
- (iv) establish such other conditions or requirements deemed necessary or appropriate by the Tribe.

(f) No harvesting permit shall be issued pursuant to this section for a particular activity or in a particular area where the landowner has notified the Tribe that:

- (i) a particular activity is contrary to the area's general plant management or system; or
- (ii) a particular area is closed to gathering under the area's general plan and management plan.

(g) Prior to the issuance of a gathering permit pursuant to this section, the tribal conservation department shall consult the landowner of the area where the gathering will take place.

26.1204 Restrictions On Wild Plant Gathering -- Public Safety.

No member engaged in the gathering of wild plants pursuant to this chapter shall impair or obstruct developed recreational trails or special use areas and any wild plant subject to the gathering which may impede or impair the use of those trails or areas shall be removed immediately.

26.1205 Sale of Wild Plants Authorized.

(1) Nothing contained in this ordinance shall be construed to prohibit members from selling any wild plant, or any part thereof, lawfully harvested pursuant to this chapter.

(2) Except with the respect to the sale of ginseng, the provisions of Section 26.326 {Records Of Commercial Transactions Required} shall not apply to the sale of any wild plant, or part thereof, lawfully harvested pursuant to this chapter.

(3) In addition such other information that is required by Section 26.326, no member shall fail to specify the county of ginseng harvest on the record of a commercial transaction.

26.1206 Assistance By Non-Tribal Member.

No person who is not a member or a member of another signatory tribe shall assist a member in the gathering of any wild plant, or part thereof, pursuant to this chapter except as provided in Section 26.330 {Permissible Conduct/Assistance By Non-Members}.

CHAPTER XIII: MISCELLANEOUS WILD ANIMAL HARVESTING
REGULATIONS

26.1301 Purpose.

The purpose of this chapter is to regulate the harvest of various wild animals, or any part thereof, and various wild animal harvest methods which are not regulated elsewhere in this ordinance.

26.1302 Clams, Clamming and Commercial Clamming.

(1) Purpose. The purpose of this section is to regulate the taking of clams in order to conserve and maintain their supply, to regulate members engaged in commercial clamming, and to protect those clam species which are endangered, threatened or rare.

(2) Definitions. For the purposes of this section, the following terms shall be construed to apply as follows:

(a) "Clam" means any freshwater mussel, shell, valve or part of any shell, or meat of a freshwater mussel found in any body of water in the ceded territory, but does not include meat after it has been processed for human or animal consumption and does not include bait, pearls, shells and parts of shells which have been mounted for display or fashioned into jewelry or items of apparel.

(b) "Clam Buying" means buying, bartering or obtaining clams from commercial clam shellers or others for resale as clams.

(c) "Clam helping" means assisting a commercial clam sheller in activities related to commercial clam shelling or assisting in clam buying activities but does not include buying, bartering or obtaining clams from commercial clam shellers or others for resale as clams.

(d) "Clamming" means the taking, killing, collecting or removing of clams from a body of water and the incidental killing of clams in the search for pearls but does not include commercial clam shelling.

(e) "Commercial clamming" means commercial clam shelling, clam buying, clam helping and related activities.

(f) "Commercial clam sheller" means any member who engages in commercial clam shelling.

(g) "Commercial clam shelling" means taking, killing, collecting or removing of more than 50 pounds of clams per day from bodies of water located in the ceded territory and the incidental killing of more than 50 pounds of clams per day in the search of pearls.

(h) "Cooked clam" means a clam which has been processed in a cooker and a rotating drum in order to remove the meat or soft parts of the clam.

(i) "Crow-foot bar" means a bar or rod which has hooks or wires attached to it and which may be used to take clams. The hooks or wire may have beads or have thickened ends.

(j) "Dead shell" means a clam which apparently died in the water of natural causes, contains no meat or soft parts and exhibits readily notable sediment, algae, vegetation or water stains, discoloration, soiling, watering or other visual evidence on its interior surface which clearly and unambiguously shows that the clam is not a cooked clam and is not freshly dead.

(k) "Inland waters" means all waters in the ceded territory except Lake Superior.

(l) "Ring" means a rigid circular band or a circular opening in a piece of solid material which may be used to measure clams.

(m) "Wisconsin-Michigan Boundary Waters" means the following waters that form the interstate boundary waters between the states of Wisconsin and Michigan:

(i) Gogebic Co.(MI)/Vilas Co.(WI): Basin lake, Big Lake, Big Bateau Lake, Crampton Lake, Crystal Lake, Cyrus Lake, Lac Vieux Desert, Little Presque Isle Lake, Mamie Lake, Mill Lake, Norwood Lake, Plum Lake, Roach Lake, Smoky Lake, State Line Lake, Tenderfoot Lake, West Bay Lake.

(ii) Iron Co. (MI)/Florence and Forest Cos. (WI): Brule River.

(iii) Dickinson Co. (MI)/Florence Co. (WI): Big Bad Water Lake.

(iv) Menominee, Dickinson and Iron Cos. (MI)/Florence Co. (WI): Menominee River (including all impoundments).

(v) Gogebic Co. (MI)/Iron Co. (WI): Montreal River (including the East Fork up to the mouth of Layman Creek.

(n) "Wisconsin-Minnesota Boundary Waters" means the St.Croix and St.Louis Rivers where those waters form the boundary between the states of Wisconsin and Minnesota.

(3) Permit Required.

(a) Clamming Generally.

No permit shall be required of any member to engage in clamming.

(b) Clam Buying and Commercial Clam Shelling.

(i) no member shall engage in clam buying or commercial clam shelling without possessing a valid permit.

(ii) no member shall fail to maintain records of clam buying, commercial clam selling or clam helping activities undertaken pursuant to a permit issued under this subsection or to provide a report of those activities to the tribal conservation department on such forms as the tribe may prescribe.

(c) Issuance of Permits.

(i) the Tribal conservation department is authorized to issue clam buying and commercial clam shelling permits.

(ii) in issuing such permits, the Tribe or tribal conservation department may impose such conditions or requirements in addition to those otherwise imposed by this section as deemed necessary or appropriate.

(4) General Restrictions.

(a) No member engaging in clam buying or commercial clam shelling pursuant to this section shall engage in clamming at the same time.

(b) No member shall possess or transport more than 50 pounds of clams or sell any clams to a person who is not a member of the Tribe or a member of another signatory Tribe unless at least one of the following applies:

(i) the member has been issued a clam buying or commercial clam shelling,

(ii) the member demonstrates that the clams are being transported through the State of Wisconsin in interstate commerce by a reasonable direct route,

(iii) the provisions of Section 26.326 {Records of Commercial Transactions Required} shall apply to the sale of any clam lawfully harvested pursuant to this Chapter.

(5) Clamming methods and equipment.

(a) Methods.

(i) no member shall engage in clamming or commercial clam shelling except by hand while diving or wading or by the use of crow-foot bars.

(ii) no member shall intentionally damage or break a clam to make a determination of its original size or species impossible.

(iii) no member shall cook clams unless the member possesses a valid clam buying permit or the member is assisting a clam buying permittee.

(iv) no member engaging in clamming or commercial clam shelling shall fail to promptly return all undersize clams and all clams of a species not open to clamming or commercial clam shelling, respectively, to the bed of the water at the location where the clams were found. The clams shall be returned unopened and unharmed.

(v) no member shall maliciously waste clams which are discarded in the search for pearls.

(b) Equipment.

(i) no member shall use a crow-foot bar longer than 20 feet while clamming or commercial clam shelling.

(ii) no member may place more than 3 crow-foot bars in the water while clamming or commercial clamming.

(iii) no member shall possess more than 3 crow-foot bars while on any body of water.

(iv) no member shall use more than one boat for clamming or for commercial clam shelling with crow-foot bars.

6. Minimum size and weight restrictions.

(a) Size. A member engaging in clamming or commercial clam shelling shall determine the size of a clam promptly upon removing it from the water by attempting to pass it intact through a ring with a diameter of the minimum size specified for the respective species in the table provided in subs (7) if the clam is taken while commercial shelling or in the table provided in subs (8) if the clam is taken while clamming.

(b) Weight. For the purposes of this section, the weight of the clams shall be determined on a wet or fresh basis if their condition permits it.

7. Commercial Clamming: Size limits; Open Seasons, Species and Waters.

(a) Except as provided in subs. (b), no member shall engage in commercial clam shelling except between sunrise and sunset during the open season in waters which are open to commercial clam shelling, for clams of a species which is open to commercial clam shelling and which are of the minimum size or larger, as shown in the following table (dates given are inclusive):

(8) Assistance by Non-Tribal Members. No person who is not a member or a member of another signatory tribe shall assist a member in the harvesting of clams pursuant to this chapter except in accordance with Section 26.330 {Permissible Conduct/Assistance by Non-Members}.

26.1303 Crayfish Regulations.

(1) Seasons. Except as provided in subs (2), there is a continuous open season for the harvest or crayfish.

(2) (i) in Wisconsin-Minnesota boundary waters as defined in Section 26.1301(2)(n), the open season for crayfish harvesting shall be from May 1 to March 1 (inclusive).

(ii) no member shall harvest crayfish in Wisconsin-Minnesota boundary waters except during the open season provided in this section.

(3) Bag Limit. There is not bag limit on the harvest of crayfish.

(4) Size Limit. There is no size limit applicable to the harvest of crayfish.

(5) Methods of Harvest.

(a) No member shall harvest crayfish except by the methods authorized by subs. (b).

(b) Crayfish may be harvested by hand, by the use of dip nets as defined in Section 26.901(1), fyke nets as defined in Section 26.901(2) or seines as defined in Section 26.901(8), and by crayfish traps with any entrance not to exceed 2 ½" at its greatest diagonal measurement. Crayfish traps set in trout streams shall be of a size not greater than 16 inches square or in diameter with an opening at the throat of the trap no larger than 1 ½ inches in diameter.

(c) No member shall set any crayfish trap unless the trap has been tagged indicating the member's name and address.

(d) No member shall fail to raise any crayfish trap and remove all crayfish at least once every 24 hours.

(6) Other Restrictions. No member shall:

(a) Possess crayfish while on any inland water as defined in Section 26.1302(2)(k) unless the member is engaged in crayfish removal. Simultaneous possession of live crayfish and hook and line fishing equipment while on any inland water shall be considered prima facie evidence of a violation of this subsection.

(b) Place deposit, throw or otherwise introduce live crayfish into any body of water without possessing a permit authorizing the activity issued by the tribal conservation department. Such a permit may impose such conditions and requirements as the tribal conservation department deems necessary or appropriate.

(c) Use any float or marker to locate crayfish traps which exceeds 5 inches in size at its greatest dimension, which extends more than 4 inches above the surface of the water, which is of an orange or fluorescent coloration and which fails to display the name and address of the member.

(d) Use as bait in a crayfish trap any material other than parts of fish lawfully harvested or fish by-products including fish meal or prepared parts of such fish.

(7) Sale of Crayfish Authorized.

(a) Nothing in this ordinance shall be construed to prohibit the sale to any person of crayfish lawfully harvested pursuant to this chapter.

(b) The requirements of Section 26.326 {Records of Commercial Transaction Required} shall not apply to the sale of less than 50 pounds live weight of crayfish lawfully harvested in a calendar year pursuant to this chapter.

(8) Assistance by Non-Tribal Members. No person who is not a member or a member of another signatory tribal shall assist a member in the harvesting of crayfish pursuant to this chapter except in accordance with Section 26.330 {Permissible Conduct/Assistance by Non-Members.}

26.1304 Frog Regulations.

(1) Season.

(a) An annual open season for the harvest of frogs commencing on the Saturday nearest May 1 and ending December 1 (inclusive) is hereby established.

(b) No member shall harvest any frog except during the open season established by this section.

(2) Bag and Size limits. There are no bag or size limits applicable to the harvest of frogs.

(3) Methods of Harvest. No member shall harvest frogs with the aid of a firearm as defined in Section 26.6014(4). There are no other method restrictions applicable to the harvest of frogs.

(4) Exception. This section shall not apply to frogs propagated in captivity.

(5) Sale of Frogs Authorized. (a) Nothing in this ordinance shall be construed to prohibit the sale to any person of frogs lawfully harvested pursuant to this chapter.

(b) The requirements of section 26.326 {Records of Commercial Transaction Required.} shall not apply to the sale of less than 50 pounds live weight of frogs lawfully harvested in a calendar year pursuant to this chapter.

(6) Assistance by Non-Tribal Members. No person who is not a member or a member of another signatory tribe shall assist a member in the harvesting of frogs pursuant to this chapter except in accordance with Section 26.330 {Permissible Conduct/Assistance by Non-Members.}

26.1305 Turtle Regulations.

(1) Seasons.

(a) An annual open season for the harvest of turtles commencing on June 16 and ending on April 30 (inclusive) is hereby established.

(b) No member shall harvest any turtle except during the open season established by this section.

(2) Bag and Size Limits. There are no bag or size limits applicable to the harvest of turtles.

(3) Methods Of Turtle Harvest. Except as provided in subs. (6), below, no member shall harvest turtles except by the following methods:

(a) By hand.

(b) By hook and line.

(c) By the use of traps as follows:

(i) hoop net turtle traps may be used.

(ii) hoop nets shall be constructed with a mesh of not less than 8 inch stretch measure providing traps are set so that not less than 2 inches of the hoops extend above the surface of the water.

(iii) float and tank type turtle traps may be used.

(iv) each turtle trap shall be tagged so as to be visible at all times with the member's name and address.

(v) each turtle trap shall be checked and any entrapped turtles shall be removed at least once each day following the set.

(d) In trout streams, by the method commonly known as hooking.

(e) Bow and arrow.

(4) Sale Of Turtles Authorized.

(a) Nothing in this ordinance shall be construed to prohibit the sale to any person of turtles lawfully harvested pursuant to this chapter.

(b) The requirements of Section 26.326 {Records Of Commercial Transaction Required} shall not apply to the sale of less than 50 pounds of turtles lawfully harvested in a calendar year pursuant to this chapter.

(5) Assistance By Non-Tribal Members. No person who is not a member or a member of another signatory tribe shall assist a member in the harvesting of turtles pursuant to this chapter except in accordance with Section 26.330 {Permissible Conduct/Assistance By Non-Members.}

(6) Nothing in this section shall be construed to prohibit a member from possessing or selling turtles taken incidental to fishing by methods authorized by Sections

26.907 {Dip Nets, Fyke Nets and Seines.}, 26.908 {Gill Nets.}, or 26.909 {Setlines or Set or Bank Poles.}

26.1306 Nests and Eggs.

(1) No member shall harvest, take, needlessly destroy or possess the nest or eggs of any wild bird for which a closed season is established by this ordinance unless the member possesses a valid permit issued by the tribal conservation department which authorizes the activity in question.

(2) In issuing a permit pursuant to this section, the tribal conservation department may impose such conditions and requirements as it deems appropriate or necessary.

26.1307 Falconry.

(1) Definitions. For the purposes of this chapter, the following terms shall be construed to apply as follows:

(a) "Raptor" means a live, migratory bird of the following family groups:

(i) Falconidae - Falcons, Merlin and Kestrel.

(ii) Accipitridae - Buteos, Accipiters, Kites, Harriers and Eagles, excluding the bald eagle.

(iii) Strigidae - limited to only the great horned owl.

(b) "Falconry" means the taking or attempting to take quarry by means of a trained raptor.

(c) "Take" means to trap, capture or pursue or attempt to trap, capture or pursue, a raptor for the purposes of falconry.

(d) "Marker" means a numbered, non-reusable marker supplied by the fish and wildlife service.

(e) "Imping" means a method of repairing broken flight or tail feathers.

(f) "Hacked Back" means a gentle or gradual release technique used by falconers whereby a raptor released back into the wild is fully capable of competing with other raptors.

(g) "Replacement raptor" means a raptor obtained to replace one which has died in captivity, has escaped or is released into the wild.

(h) "Fish and Wildlife Service" means the U.S. Department of Interior - Fish and Wildlife Service.

(2) Scope.

(a) The raptors covered by this section include species whose range extends into any part of Mexico or the United States. All individual birds of such species whether or not raised in captivity, and including any subspecies, even if the range of such subspecies does not include parts of the above countries, are covered by these regulations.

(b) No member shall import any wildlife for the purposes of this section from a foreign source without complying with applicable federal laws and regulations.

(3) Permit Required.

(a) No member shall take, possess, or transport any raptor for falconry purposes or practice falconry in the ceded territory without possessing a valid permit issued pursuant to this section or issued by another jurisdiction provided that the jurisdiction is listed in the federal regulations as a jurisdiction meeting federal falconry standards.

(b) The tribal conservation department is authorized to issue falconry permits pursuant to and in accordance with the provisions of this section. In issuing such a permit, the department may impose such additional conditions or requirements as it deems necessary or appropriate.

(4) Falconry Hunting.

(a) Established Seasons. Falconry permit holders may hunt the following species during the open seasons indicated (all dates are inclusive) and no member shall hunt by falconry except during the designated open seasons for the species indicated:

<u>Species</u>	<u>Open Season</u>
(i) (ii) All species of ducks, except canvasbacks, mergansers and coots, and Gallinules, Sora rail, common spine and woodcock.	Same day as opening day of hunting season for same species established pursuant to Section 26.1003 and continuing for 107 consecutive days.
(ii) Cottontail rabbit, fox, squirrel and gray squirrel.	Year around.
(iii) All other species the harvest of which is not except muskrat, mink, beaver,	September 1- March 31. prohibited by this ordinance

otter and fisher.

(b) Let Lay Rule. A falconry permit holder whose raptor accidentally kills any protected species during the closed season or a protected animal or sex during the open hunting season shall leave the dead animal where it lies. The raptor may feed upon the dead animal prior to leaving the kill site.

(c) General Restrictions. The daily bag limits, possession limits, hunting hours and other regulations established by this ordinance generally applicable to hunting the species which also may be hunted by falconry shall apply to falconry hunting and no member shall fail to comply with such regulations when falconry hunting.

(5) Prerequisite To Obtaining A Falconry Permit. No member shall be eligible to obtain a falconry permit unless the member has answered correctly at least 80% of the questions on a supervised examination. The examination shall be provided by the fish and wildlife service and administered by a representative of the tribal conservation department or of the Commission's Biological Services Division relating to the basic biology, care and handling of raptors, literature, laws and regulations governing falconry. Applicants failing the required examination may repeat the examination after 30 days. Should a second failure occur, a one-year waiting period is required before the examination sequence may be repeated.

(6) Permit Application. Any member who wishes to practice falconry in the ceded territory, after successfully passing the examination, must apply for a falconry permit to the tribal conservation department on such forms as the department prescribes, provided the department requires the following information:

- (a) Name, address, and tribal identification number.
- (b) The number, species, age (if known), sex (if known), date of acquisition and source of each raptor legally possessed by current permit.
- (c) The number, species, age (if known), sex (if known), and source of each raptor the applicant plans to acquire.
- (d) Description and location of facilities where the raptor is or will be kept.
- (e) Description of training areas.
- (f) Date and time when facilities and training area will be ready for inspection.

(g) Statement that the information provided is true and correct and authorizing the tribal conservation department, or its designate, and federal agents to inspect raptors, facilities and equipment at any reasonable time following permit issuance.

(h) Signature of applicant.

(7) Facilities and Equipment.

(a) Upon receipt of the application for a falconry permit, the tribal conservation department, or its designate, shall inspect the applicant's facilities for keeping raptors and make a report concerning the acceptability of the required facilities and equipment.

(b) The proposed use of facilities or equipment other than specified shall be submitted to the tribal conservation department and may be permitted if found to insure the health and safety of the raptor to be possessed.

(c) The primary consideration for raptor housing facilities whether indoors (mews) or outdoors (weathering area) is cleanliness and protection from the environment, predators, or undue disturbance. The applicant shall have the following facilities:

(i) indoor facilities (mews) shall be large enough to allow easy access for caring for the raptors housed in the facility. If more than one raptor is to be kept in the mews, the raptors shall be tethered or separated by partitions and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.

(ii) outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind and inclement weather shall be provided for each bird. Adequate perches shall be provided.

(d) The following items shall be in the possession of the applicant before a permit may be issued:

(i) Jesses. A minimum of one pair of Aylmeri jesses or similar type constructed of pliable, high quality leather or suitable synthetic material to be used when any raptor is flown free. Traditional one-piece jesses may be used on raptors when not being flown.

(ii) Leashes and Swivels. A minimum of one flexible, leather resistant leash and one strong swivel of acceptable falconry design.

(iii) Bath Container. A minimum of one suitable container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor.

(iv) Outdoor Perches. A minimum of one weathering area perch of an acceptable design shall be provided for each raptor.

(v) Weighing Device. A reliable scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than ½ ounce (15 gram) shall be provided.

(e) No member shall fail to keep all facilities and equipment at or above the preceding standards at all times.

(8) Unsatisfactory Conditions. If the Tribal Conservation Department determines there is improper treatment of any raptor or lack of adequate facilities as required by this section to properly care for any raptor, and if, following the receipt of notification from the department, the applicant fails to correct all discrepancies contained or listed in the notice within 48 hours after receipt of such notice, the department may revoke a permit or disapprove the application for a permit and seize any raptors in the possession of the applicant. Raptors so seized shall, whenever possible, be hacked back to the wild or disposed of as the department deems necessary.

(9) Permit Issuance Criteria. Upon receiving an application for a falconry permit, the Tribal Conservation Department shall decide whether a permit should be issued. In making this decision, the department shall consider, in addition to those criteria listed in this section, the following factors:

(a) Whether such action would have a significant effect on the wild population of raptors.

(b) Whether the Fish and Wildlife Service and the Commission's Biological Services Division concur that the applicant has met the requirements of federal and tribal law.

(10) Classes of Permits.

(a) Apprentice Class.

(i) an apprentice class permittee shall be at least 14 years old.

(ii) a sponsor who is holder of a general or master falconry permit is required for the first 2 years in which an apprentice permit is held, regardless of the age of permittee.

(iii) a sponsor may not have more than 3 apprentices at any one time.

(iv) a sponsor shall submit an annual progress report in narrative form to the Tribal Conservation Department by July 31 of each year.

(v) the sponsor shall notify the Tribal Conservation Department at any time when the progress or performance of an apprentice is unsatisfactory.

(vi) upon completion of the apprentice requirement, the permittee must receive approval of the sponsor before advancing to the general class.

(vii) an apprentice class permittee shall not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period.

(viii) an apprentice class permittee shall possess only an American kestrel or a red-tailed hawk.

(b) General Class.

(i) a general class permittee shall be at least 18 years old.

(ii) a general class permittee:

1. Shall have at least two years experience in the practice of falconry at the apprentice level and receive a written recommendation from the sponsor or produce documentation of qualified experience exceeding 2 years.

2. May not possess more than 2 raptors and may not obtain more than 2 raptors for replacement birds during any 12 month period.

3. May not take, transport or possess any golden eagle, merlin or any endangered or threatened species as defined in Section 26.201(4) of this ordinance.

(c) Master Class.

(i) a master class permittee shall have at least 5 years experience in the practice of falconry at the general class level or its equivalent.

(ii) a master class permittee:

1. May not possess more than 3 raptors, and may not obtain more than 2 raptors for replacement birds during any 12 month period.
2. May not take, transport or possess any endangered or threatened species as defined in Section 26.201(4) of this ordinance.
3. May not take, transport, or possess as part of his or her three-bird limitation, more than one raptor listed as a federally threatened species as prescribed by 50 CFR Sec. 21.29(e)(3)(r).

(11) Duration Of Permits and Renewal. A falconry permit or the renewal of a falconry permit is valid when issued by the Tribal Conservation Department and expires July 31 of each calendar year. The procedure for handling and deciding upon a permit renewal application shall be the same as for a new application.

(12) Taking and Disposal Restrictions.

(a) Season For Taking Raptors From The Wild.

(i) young raptors not yet capable of flight (eyasses) may be taken by a general or master falconer during the period of March 26 through April 5 and May 15 through July 15 (inclusive). No permittee shall take more than 2 eyasses during the specified period.

(ii) first year (passage or immature) raptors may be taken only during the period September 16 through December 31 (inclusive).

(iii) in no case shall the total of all periods of raptor taking exceed 180 days during a calendar year, except that a raptor which has a federal marker attached may be retrapped at any time.

(b) Marking.

(i) raptors held under a permit shall wear a numbered non-reusable marker supplied by the Fish and Wildlife Service.

(ii) no member shall fail to attach the marker to the raptor immediately upon acquisition.

(iii) no member shall alter, counterfeit or deface a marker except that permittees may remove the rear tab on markers and may smooth any imperfect surface provided the integrity of the marker and numbering are not affected.

(iv) permit holders trapping previously marked raptors shall immediately report such trapping to the tribal conservation department.

(c) Eggs Taken from the Wild. No member shall remove any raptor egg or eggs from any nest unless authorized by a permit issued by the tribal conservation department.

(d) Nestling Raptors. General and master class permittees may take nestlings not yet capable of flight (eyassess) as provided in subs. (10), above.

(e) Adult Raptors. Only American Kestrel and great horned owls may be taken when over one year old, except that any raptor other than federally endangered or threatened species taken under a depredation or scientific collector's permit may be used for falconry by general and master class permittees.

(f) Raptors Taken in the Ceded Territory. Title to raptors taken in the ceded territory remains in the Tribe and said raptors may be transferred in accordance with the provisions of subs.(16), below.

(g) Raptors from Outside the Ceded Territory. No member shall possess or transport raptors obtained from outside the ceded territory within the ceded territory unless accompanied by legal authority from the jurisdiction in which the raptor was acquired and provided a tribal falconry permit is in the member's possession.

(h) Escape or Death of Raptors. Falconry permittees shall report the loss of any raptor within 3 days to the tribal conservation department. All carcasses are to be disposed of as directed by the fish and wildlife service.

(i) Exchange of Raptors. Gift or transfer of a raptor to a holder of a tribal permit is allowed, but must be reported by the permittee within 3 days of such gift or transfer to the tribal conservation department.

(j) Trapping of Raptors.

(i) all live traps used in taking raptors shall be of humane design as to offer minimum harm to captured birds and shall be attended during reasonable time periods.

(ii) all traps shall bear a legible label containing the name, address and tribal falconry permit number of the permittee.

(k) Training of Raptors. Permittees may train raptors by using or killing birds obtained from licensed game farms. A game farm receipt is required for any bird in possession. Such birds may be possessed year round and shall be treated in a humane manner and confined under sanitary conditions with proper care.

(13) Temporary Care. (a) Qualified persons other than the permittee may temporarily care for the birds of a permittee if written permission from the permittee accompanied the birds when they are transferred.

(i) temporary care for periods not exceeding 30 days shall provide an adequate perch and protection from extreme temperatures and excessive disturbance.

(ii) care periods exceeding 30 days shall meet the following requirement:

1. The tribal conservation department shall be informed in writing by the permittee of this action within 3 days of the transfer and informed where the birds are being held, the reason for the transfer, who is caring for them and approximately how many days they will be in the care of the second person.

2. Such temporary care shall provide facilities which meet the standards established by this section.

(b) Diseased or injured raptors may be transported to the nearest, qualified rehabilitation facility. A permittee shall file with the tribal conservation department a report including the diagnosis by the facility within 5 days of the occurrence.

(14) Transportation. (a) Temporary Holding. A raptor may be transported or held in temporary facilities for a period not to exceed 30 days. Such facility shall provide an adequate perch and protection from extreme temperatures and excessive disturbance.

(b) Use Beyond the Ceded Territory. A permittee may remove raptors held pursuant to a tribal permit from the ceded territory for meets, trials, hunting and other falconry activities provided the permittee obtains such permit or license as may be required by another jurisdiction.

(15) Release of Marked Raptors. A falconry permittee shall obtain written permission from the tribal conservation department before any raptor not indigenous to the ceded territory is intentionally released to the wild, at which time the marker from the released bird shall be removed. The marker from an intentionally released raptor which is indigenous to the ceded territory shall also be removed. A standard federal bird band shall be attached to such birds by a tribal or fish and wildlife authorized federal bird bander whenever possible.

(16) Permit Conditions. In addition to the general conditions set forth in this section, every falconry permit issued shall be subject to the following special conditions:

(a) Prohibitions. No permittee shall take, possess or transport a raptor in violation of the restrictions, conditions and requirements contained in this section.

(b) Trade or Transfer of Raptors.

(i) a permittee may trade or transfer a raptor to another permittee if the transaction occurs entirely within the ceded territory and no money or other consideration is involved.

(ii) a permittee may trade or transfer a raptor to another permittee beyond the ceded territory if prior written approval of the other jurisdiction's agency which issued the permit is obtained and no money or other consideration is involved.

(c) Annual Report Requirement.

(i) by July 31 of each year, a permittee shall submit a falconry report to the tribal conservation department containing the following information:

1. Name and address of the permittee.
2. Tribal permit number.
3. Species, sex (if known), age (if known), and marker number of each raptor added since the last report period. Where and from whom acquired.
4. Species, sex (if known), age (if known), and marker number of each raptor disposed of since the last reporting period and the method of disposition.

5. Species, sex (if known), age (if known), and marker number of each raptor in possession as of June 30 of the year in which the report is filed.

6. Number and species of quarry captured during the legal season.

(ii) failure to report by July 31, may result in the non-renewal of a falconry permit.

(17) Other Restrictions.

(a) A member who possess a lawfully acquired raptor before the enactment of these regulations and who fails to meet the permit requirements shall be allowed to retain the raptors. All such birds shall be identified with markers and cannot be replaced upon death, loss, release or escape of such raptors.

(b) A person who possesses raptors before the enactment of these regulations in excess of the number specified by the falconry permit shall be allowed to retain the extra raptors. All such birds shall be identified with markers and no additional raptors may be obtained until the number authorized by the class of permit held by the permittee.

(c) Feathers that are molted or those feathers from birds held in captivity that die may be retained and exchanged by permittees only for imping purposes.

26.1308 Dog Training.

(1) Definitions. For the purposes of this section, the following terms shall be construed to apply as follows:

(a) "WDNR lands" means lands under the management and control of the Wisconsin Department of Natural Resources.

(b) "Dog training" means the activity of teaching a dog to retrieve, point, flush, and/or track wild animals for the purpose of hunting.

(2) Permits.

(a) Except as provided in subs. (b)(ii), no member shall possess, use or shoot captive protected wild animals released for dog training purposes on any lands without possessing a valid dog training permit issued by the tribal conservation department. The use of unprotected animals does not require a permit except from May 1 to June 30 (inclusive). A dog training permit shall:

(i) be effective through December 31 of the year following issue.

(ii) authorize the permittee and persons accompanying the permittee to possess and use captive, protected wild animals for dog training only. The permit does not authorize commercial or organized shoots, animal selling, breeding or propagation. On WDNR lands, captive wild animals may only be used within designated dog training areas.

(iii) be in the possession of the permittee while engaged in dog training activities.

(iv) be valid for the areas identified on the permit.

(v) be revoked by the tribal conservation department if any regulations applicable to dog training or any permit restrictions are violated.

(b) Animal Use. Any member using captive protected wild animals for dog training shall possess a receipt issued by a licensed fur farm or game farm or by a dog training or dog trial permit holder.

(i) Wild Animals. Any permittee may train dogs on free-roaming protected or unprotected wild animals except that a permittee shall not:

1. Kill any such wild animal;
2. Pursue wild bear for dog training purposes except from July 1 to August 31 (inclusive); or
3. Pursue any wild animal for dog training purposes from May 1, to June 30 (inclusive).

(ii) Licensed Animals. Training hunting dogs with raccoons possessed under authority of a game or fur farm license may be used at any time outside of WDNR lands without a dog training permit provided the animals are kept under control by caging or similar restraint. Except for bear dog training, training hunting dogs on other protected wild animals possessed under the authority of a game farm, fur farm or shooting preserve license may also be used at any time outside of WDNR lands without a dog training permit. Any dog training pursuant to this subsection shall be limited to the game farm, fur farm or shooting preserve which is licensed to possess the wild animal.

(iii) Mammal Identification. Captive raccoons used for dog training shall be treated on either ear with a letter-number combination determined by the tribal conservation department unless controlled by leash, cage or similar restraint.

(iv) Care and Treatment. Captive animals possessed for dog training purposes shall be treated in a humane manner and confined under sanitary conditions with proper and adequate housing, care, food and fresh water.

(c) Special Restrictions.

(i) WDNR Lands. On WDNR lands open to public hunting and not designated open to dog training, dogs shall be controlled by a member using a leash which is no more than 8 feet in length from April 15 through July 31.

(ii) Firearms. Blank handguns may be used for dog training on wild animals without a permit.

(iii) Vaccinations. No member shall use a dog for dog training purposes unless the dog has been properly vaccinated against rabies by a veterinarian.

(d) WDR Dog Training Grounds. No member engaged in dog training pursuant to this section shall fail to comply with any land use restrictions imposed by the Wisconsin Department of Natural Resources upon dog training occurring on WDNR lands containing Class 1 and Class 2 dog trial grounds.

CHAPTER XIV: BOATING SAFETY REGULATIONS

26.1401 Definitions.

The following terms, whenever used in this section, shall be construed to apply as follows:

(1) "Boat" or "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) "Employ" means to make use of for any purpose other than maintenance.

(3) "Motorboat" means any boat equipped with propulsion machinery, whether or not the machinery is the principal source of propulsion.

(4) "Non-motorized Boat" means a boat which is not a motorboat but which is designed and constructed to be used as a boat for transportation of a person or persons on water. This term includes, but is not limited to, any canoe, row boat, raft and dinghy which is not a motorboat.

(5) "Operate" or "Use" when used with reference to a motorboat, boat or vessel means to navigate or otherwise employ.

(6) "Operation of a Motorboat" means controlling the speed or direction of a motorboat, except a sailboat operating under sail alone.

(7) "Operator" means a person who is engaged in the operation of a motorboat, who is responsible for the operation of a motorboat or who is supervising the operation of a motorboat.

(8) "Owner" means the person who has lawful possession of a boat by virtue of legal title or equitable interest therein which entitles him or her to lawful possession.

(9) "Slow-No-Wake" means that speed at which a boat moves as slowly as possible while still maintaining steerage control.

26.1402 Classification of Motorboats.

For the purpose of sections 26.1403, 26.1404 and 26.1405 motorboats are divided on the basis of their length into 4 classes as follows:

- (1) Class A - those less than 16 feet.
- (2) Class 1 - those 16 feet or over but less than 26 feet.
- (3) Class 2 - those 26 feet or over but less than 40 feet.
- (4) Class 3 - those 40 feet or over.

26.1403 Lighting Equipment.

(1) When lights required; prohibited lights. Except as provided in Section 26.1404:

- (a) No member shall operate any motorboat at any time from sunset to sunrise unless such motorboat carries the lighting equipment required by this section and unless such equipment is lighted when and as required by this section.

(b) No owner shall give permission for the operation of a motorboat at any time from sunset to sunrise unless such motorboat is equipped as required by this section.

(2) Lights for motorboats of classes A and 1. All motorboats of classes A and 1 when under way at any time from sunset to sunrise shall carry and have lighted the following lamps:

(a) One lamp aft showing a bright white light all around the horizon.

(b) One combined lamp in the fore part of the motorboat and lower than the white light aft, showing green to starboard and red to port and so fixed that each side of the combined lamp throws a light from directly ahead to 2 points abaft the beam on its retrospective side.

(3) Lights for motorboats of classes 2 and 3. All motorboats of classes 2 and 3 when under way at any time from sunset to sunrise shall carry and have lighted following lamps:

(a) One lamp in the fore part of the boat as near the stem as practicable, so constructed as to show an unbroken bright white light over an arc of the horizon of 20 points of the compass and so fixed as to throw the light from directly ahead to 2 points abaft the beam on either side.

(b) One lamp aft showing a bright white light all around the horizon and higher than the white light forward.

(c) On the starboard side, one lamp showing a green light, and on the port side, one lamp showing a red light, both fitted with inboard screens of sufficient height and so set as to prevent these lights from being seen across the bow. Each such side lamp shall be so constructed as to show an unbroken light over an arc of the horizon of 10 points of the compass and shall be fixed as to throw the light from directly ahead to 2 points abaft the beam on its respective side.

(4) Sailboats without motors and rowboats. Every boat propelled by muscular power and every sailboat not equipped with a motor, when under way at any time from sunset to sunrise, shall carry ready at hand a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(5) Performance specifications for lamps. Every white light prescribed by this section shall be of such character as to be visible at a distance of at least 2 miles on a dark night with clear atmosphere. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile on a dark night with clear atmosphere.

(6) Optional lighting requirements. Any boat may carry and exhibit the lights required by the federal regulations for preventing collisions at sea, 1948, federal act of October 11, 1951, (33 USC 143-147d) as amended, in lieu of the lights required by subs. (2) and (3).

26.1404 Exception for Motorboat Operated for Spearing Purposes.

The lighting requirements of Section 26.1403 shall not apply to a member operating or using a motorboat while fishing with a spear pursuant to Chapter IX of this ordinance provided that the member is using a light in the front part of the boat as part of such fishing and is operating the boat a slow-no-wake speed.

26.1405 Other Equipment.

(1) Battery cover. No member shall operate any motorboat equipped with a storage battery in the waters of the ceded territory unless the battery is:

(a) Provided with suitable supports and secured against shifting with the motion of the boat; and

(b) Equipped with nonconductive shielding means to prevent accidental shorting of battery terminals.

(2) Personal flotation devices (PFD).

(a) No member shall operate or use a boat which is:

(i) less than 16 feet in length or a canoe or kayak unless at least one PFD of Type I, II, III, or IV PFD or their equivalents listed in figure 1 (below) is on board for each person;

(ii) 16 feet or more in length, except a canoe or kayak, unless at least one PFD of Type I, II, III PFD or their equivalents listed in figure 1 (below) is on board for each person; and

(iii) 16 feet or more in length, except a canoe or kayak, unless at least one Type IV PFD or its equivalent listed in figure 1 (below) is on board in addition to the PFD's required in this subsection 2(i) and (ii) above.

(b) No member shall operate or use a boat unless each Type I, II, III, or IV PFD required by subsection (2)(a) is readily accessible or unless each Type IV PFD required by subsection (2)(a) is immediately available.

(c) No member shall operate or use a boat unless each PFD device required by this subsection is in serviceable condition.

(d) Figure 1 below lists devices that are equivalent to personal flotation devices.

Figure 1

<u>Devices Marked</u>	<u>Are Equivalent To</u>
160.002 Life Preserver	Performance Type I Personal Flotation Device
160.003 Life Preserver	Performance Type I Personal Flotation Device
160.004 Life Preserver	Performance Type I Personal Flotation Device
160.005 Life Preserver	Performance Type I Personal Flotation Device
160.009 Ring Life Buoy	Performance Type IV Personal Flotation Device
160.047 Buoyant Vest	Performance Type II Personal Flotation Device
160.048 Buoyant Cushion	Performance Type IV Personal Flotation Device
160.049 Buoyant Cushion	Performance Type IV Personal Flotation Device
160.050 Ring Life Buoy	Performance Type IV Personal Flotation Device
160.052 Buoyant Vest	Performance Type II Personal Flotation Device
160.053 Work Vest	Performance Type V Personal Flotation Device
160.055 Life Preserver	Performance Type I Personal Flotation Device
160.060 Buoyant Vest	Performance Type II Personal Flotation Device
26.1406	<u>Motorboat Prohibition.</u>

On lakes 50 acres or less having public access, no member shall operate a motorboat in excess of slow-no-wake speed, except when such lakes serve as thoroughfares between 2 or more navigable lakes.

26.1407 Traffic Rules. Meeting; overtaking; right of way.

No member operating a boat shall fail to comply with the following traffic rules, except when deviation therefrom is necessary to comply with federal pilot rules while operating on the navigable waters of the United States:

(1) When 2 motorboats are approaching each other "head and head," or so nearly as to involve risk of collision, each boat shall bear to the right and pass the other boat on its left side.

(2) When 2 motorboats are approaching each other obliquely or at right angles, the boat which has the other on its right shall yield the right of way to the other. "Right" means dead ahead, clockwise to 2 points abaft the starboard beam.

(3) When a motorboat and a boat propelled entirely by sail or muscular power are proceeding in such a direction as to involve risk of collision, the motorboat shall yield the right of way to the other boat.

(4) A boat may overtake and pass another boat on either side if it can be done with safety but the boat doing the overtaking shall yield the right of way to the boat being overtaken, notwithstanding any other rule in this section to the contrary.

(5) A boat granted the right of way by this section shall maintain its course and speed, unless to do so would probably result in collision.

26.1408 Speed Restrictions.

(1) Speed to be reasonable and prudent. No member shall operate a motorboat at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. The speed of a motorboat shall be so controlled as to avoid colliding with any object lawfully in or on the water or with any person, boat or other conveyance in or on the water in compliance with legal requirements and exercising due care.

(2) Fixed limits. In addition to complying with sub. (1), no member shall operate a motorboat at a speed in excess of the posted notice as established by regulatory markers.

26.1409 Prohibited Operation.

(1) Negligent operation. No member shall operate or use any boat upon the waters of the ceded territory in a careless, negligent or reckless manner so as to endanger his or her life, property or person or the life, property of person of another.

(2) Operation by incapacitated person or minor.

(a) No member in charge or control of a boat shall authorize or knowingly permit the boat to be operated by any person who by reason of physical or mental disability is incapable of operating such boat under the prevailing circumstances.

(b) No member under the age of 10 years shall operate a motorboat. Members at least 10 and less than 12 years of age may operate a motorboat only if they are either accompanied in the boat by a parent or guardian or a person at least 18 years of age designated by a parent or guardian. Members at least 12 and less than 16 years of age may operate a motor of any horsepower, but only if they are either accompanied by a parent or guardian or a person at least 18 years of age designated by a parent or guardian, or in possession of a certificate issued upon the successful completion of a tribal boating safety program or similar program conducted by another jurisdiction. Violations of this paragraph done with the knowledge of a parent or guardian shall be deemed a violation by the parent or guardian.

(3) Creating hazardous wake or wash.

(a) No member shall operate a motorboat so as to approach or pass another boat in such a manner as to create a hazardous wake or wash.

(b) An operator of a motorboat is liable for any damage caused to the person or property of another by the wake or wash from such a motorboat unless the negligence of such another person was the primary cause of the damage.

(4) Operating in circular course. No member shall operate a motorboat repeatedly in a circuitous course around any other boat, or around any person who is swimming, if such circuitous course is within 200 feet of such boat or swimmer; nor shall any boat operate or approach closer than 100 feet to any skin diver's flag or any swimmer unless the boat is part of the skin diving operation or is accompanying the swimmer, or unless physical conditions make compliance impossible.

(5) Overloading. No boat shall be loaded with passengers or cargo beyond its safe carrying capacity, taking into consideration weather and other existing operating conditions.

(6) Molesting or destroying aids to navigation and regulatory markers. No unauthorized member shall move, remove, molest, tamper with, destroy or attempt to

destroy, or moor or fasten a boat (except to mooring buoys) to any navigation aids or regulatory markers, signs or other devices established and maintained to aid boaters.

26.1410 Intoxicated Boating.

(1) Operating while under the influence of an intoxicant. No member shall engage in the operation of a motorboat while under the influence of an intoxicant to a degree which renders him or her incapable of safe motorboat operation.

(2) Operation with alcohol concentration at or above specified levels. No member shall engage in the operation of a motorboat while the person has a blood alcohol concentration of 0.1% or more by weight of alcohol in his or her blood. No member shall engage in the operation of a motorboat while the person has 0.1 grams or more of alcohol in 210 liters of his or her breath.

(3) Related charges. A member may be charged with and a prosecutor may proceed upon a complaint based upon a violation of subs. (1) or (2) or both for acts arising out of the same incident or occurrence. If the member is charged with violating both subs. (1) and (2), the offenses shall be joined. If the person is found guilty of both subs. (1) and (2) for acts arising out of the same incident or occurrence, there shall be a single conviction for purposes of sentencing. Subsections (1) and (2) each require proof of a fact for conviction which the other does not require.

PART II

**OFF-RESERVATION NATIONAL FOREST GATHERING CODE
OF THE LAC DU FLAMBEAU BAND OF
LAKE SUPERIOR CHIPPEWA INDIANS**

CHAPTER XV: INTRODUCTION

26.1501 Title.

This ordinance shall be known as the Off-Reservation National Forest Gathering Code.

26.1502 Authority.

This ordinance is enacted pursuant to Article VI, Section 1(x), of the Constitution and By-Laws of the Lac du Flambeau Tribe.

26.1503 Purpose.

It is the purpose of this ordinance to:

(1) Provide an orderly and effective system for tribal control and regulation treaty-reserved gathering activities in National Forests located in the ceded territory.

(2) Supplement the Tribal Off-Reservation Conservation Code for the purposes of regulating the exercise of treaty-reserved off-reservation gathering rights applicable to National Forests located in the ceded territory.

(3) Implement the provisions of the Memorandum of Understanding Regarding the Recognition and Implementation of Tribal Ceded Territory Rights Guaranteed by the Treaties of 1836, 1837, and 1842, as may be amended from time to time, which has been ratified by the Tribe and which is incorporated by reference herein as if set forth in its entirety.

26.1504 Effective Date.

This ordinance shall be effective on the date adopted by the Tribe's governing body.

26.1505 Interpretation.

The provisions of this ordinance:

(1) Shall be interpreted and applied as minimum requirements governing the exercise of treaty-reserved gathering rights applicable to National Forests located in the ceded territory;

(2) Shall be liberally construed in favor of the tribe;

(3) Shall be construed consistent with the purposes and provisions of the Memorandum of Understanding Regarding the Recognition and Implementation of Tribal Ceded Territory Rights Guaranteed by the Treaties of 1836, 1837, and 1842, as may be amended from time to time, which has been ratified by the Tribe and which is incorporated by reference herein as if set forth in its entirety; and

(4) Shall not be deemed a limitation or repeal of any other tribal power or authority.

26.1506 Severability and Non-Liability.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

26.1507 Relationship to Tribal Off-Reservation Conservation Code and other Tribal Ordinances.

(1) All other ordinances and resolutions that solely govern treaty-reserved ceded territory gathering rights applicable to National Forests located in the ceded territory are hereby repealed.

(2) (a) This ordinance is not intended to repeal or replace any provision of the Tribe's Off-Reservation Conservation Code. It is intended to supplement that Code for the purposes of authorizing or governing the exercise of treaty-reserved wild plant gathering rights applicable to National Forests. It is not intended to apply to the exercise of any other treaty-reserved ceded territory right that is authorized or governed by the Tribe's Off-Reservation Conservation Code.

(b) Unless otherwise specifically indicated in this ordinance, it is the intent of this ordinance that the provisions of the Tribe's Off-Reservation Conservation Code that generally govern the conduct of

tribal members exercising treaty rights applicable in the ceded territory shall apply to tribal members exercising treaty-reserved off-reservation gathering rights applicable to National Forests pursuant to this ordinance. Such provisions of the Tribe's Off-Reservation Code are hereby declared, and shall be construed, to govern tribal members engaged in the exercise of treaty-reserved gathering rights applicable to National Forests.

26.1508 Religious or Ceremonial Use of Natural Resources.

(1) Nothing in this ordinance shall prohibit the harvest or use of natural resource in a manner otherwise prohibited by this ordinance which is harvested, taken or otherwise obtained in a National Forest within the ceded territory for religious or ceremonial purposes in accordance with the traditions and customs of the Tribe and with the consent of the Tribe's governing body, or its designee.

(2) In reviewing and taking action on any request for religious or ceremonial harvest, the Tribe's governing body, or its designee, shall take into account the biological impact of the harvest, shall ensure that the harvest takes place in a manner that does not cause biological harm, and shall consult with the local National Forest District office if the requested gathering is to take place in a National Forest Research Natural Area (see Section 26.1706(1)).

(3) No member shall fail to comply with the terms and conditions of any permits issued pursuant to this section or to otherwise comply with the requirements imposed by the Tribe regarding religious or ceremonial harvest of wild plants in National Forests in the ceded territory.

CHAPTER XVI: DEFINITIONS

26.1601 Definitions.

(1) Except for specific terms defined in subsection (2), terms in this ordinance shall have the same definition as provided in the Tribe's Off-Reservation Conservation Code.

(2) The following terms, wherever used in this ordinance, shall be construed as follows:

(a) "Ceded Territory" means those off-reservation lands ceded by the Tribe or another signatory tribe to the United States of America in the Treaty of 1836, 7 Stat. 491, the Treaty of 1837, 7 Stat. 536, or the Treaty of 1842, 7 Stat. 591.

(b) “Forest Service” means the United States Department of Agriculture, Forest Service.

(c) “Gather” or “gathering” means to take or acquire or attempt to take or acquire possession of any wild plant, or part thereof.

(d) “Forest Service Salvage Timber Stand” means any stand of trees where the Forest Service has notified the Tribe of the decision to solicit bids for a Forest Service salvage timber sale contract.

(e) “National Forest” means those lands located within the ceded territory owned by the United States of America and part of the Chequamegon-Nicolet National Forest, the Hiawatha National Forest, the Huron-Manistee National Forest, the Nicolet National Forest, or the Ottawa National Forest.

(f) “Salvage Timber” means any tree in a Forest Service salvage timber stand, whether alive, dead, down or standing, having a diameter of four inches or greater.

(g) “Signatory Tribe” means an Indian Tribe which is a signatory to the Treaty of 1836, 7 Stat. 491, the Treaty of 1837, 7 Stat. 536, the Treaty of 1842, 7 Stat. 591, or the Treaty of 1854, 10 Stat. 1109, or such tribe’s successor in interest.

(h) “Wild Plant” means any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in the natural ecosystem, but for the purposes of this ordinance excludes wild rice.

CHAPTER XVII: GENERAL REGULATIONS

26.1701 Regulatory Authority.

(1) The Tribe asserts legal authority to regulate the the exercise of the Tribe’s treaty-reserved ceded territory gathering rights applicable to wild plants found in National Forests.

(2) Any person authorized to enforce this ordinance may seize forthwith wherever found:

(a) Any wild plant taken or reduced to possession in violation of this ordinance; or

(b) Any wild plant lawfully taken or reduced to possession under

this ordinance, upon violation of any provision of this ordinance relating to the possession, use, giving, sale, barter or transportation of such wild plant.

26.1702 Permits and Identification--General.

(1) No member shall gather any wild plant off-reservation in a National Forest without possessing a valid off-reservation harvesting permit approved by the Tribe, which may be the member's tribal identification card required by Subsection (2), or such other permit as this ordinance may require validated for the particular type of activity be engaged in for the particular season in question.

(2) No member shall gather any wild plant off-reservation in National Forest except while carrying a valid picture identification card issued by the tribe, or other form of identification approved by the tribe for such gathering activities.

(3) No member shall refuse to display his or her identification documents upon request of any tribal, Great Lakes Indian Fish and Wildlife Commission, federal, state, or local law enforcement officer.

(4) No member shall fail to comply with the terms, conditions and location restrictions of a permit issued pursuant to this ordinance.

(5) The tribal conservation department is authorized to issue to members permits required by this ordinance and to impose such terms, conditions and location restrictions in those permits as it deems necessary or appropriate. Except as otherwise required by this ordinance, the form of such permits shall be left to the discretion of the tribal conservation department, provided such form shall require the name, address and member's tribal identification number.

(6) The tribal conservation department may issue such harvesting permits to members of a signatory Tribe, provided such other Tribe has enacted an ordinance governing gathering in National Forests that is at least as restrictive as this ordinance.

26.1703 Commercial Wild Plant Gathering Permits.

(1) No member shall gather to sell conifer boughs, princess pine or ginseng without possessing a valid commercial wild plant gathering permit.

(2) A commercial wild plant gathering permit shall:

(a) identify the permittee or permittees, including the name, address, tribal affiliation and tribal identification number of all members authorized by the permit; and

- (b) identify the amount and general location of the plants to be gathered;
 - (c) require that all members authorized by the permit must possess a duplicate of the permit while engaged in the gathering activity.
- (3) A commercial wild plant gathering permit may:
- (a) establish limits on the quantity of the plants which may be gathered;
 - (b) in addition to other area restrictions provided in this ordinance, limit gathering to a specific area or areas;
 - (c) define or limit the methods which may be employed to gather the plants; and
 - (d) establish such other conditions or requirements deemed necessary or appropriate by the tribal conservation department.

26.1704 Harvest Monitoring.

(1) Generally. No member to whom any permit has been issued under this ordinance shall fail or refuse to provide harvest information when requested by the tribal conservation department, any person authorized to enforce this ordinance, or the Great Lakes Indian Fish and Wildlife Commission.

(2) Records of Commercial Ginseng Transactions.

- (a) No member shall sell any ginseng harvested pursuant to this ordinance to any person unless the member maintains a written record of all transactions on forms prescribed by the tribal conservation department indicating the amount of ginseng involved, the parties to the transaction, the date of the transaction and the National Forest in which harvest occurred.
- (b) Records maintained pursuant to this section shall be forwarded annually to the tribal conservation department, or its designee.
- (c) No member shall fail to comply with the reporting requirements of this section.

(d) With respect to ginseng gathered in a National Forest, this section supersedes any requirement for maintaining records of commercial transactions contained in the Tribe's Off-Reservation Conservation Code.

26.1705 Emergency Closures.

(1) Notwithstanding any other provision of this ordinance, the Director of the Biological Services Division of the Great Lakes Indian Fish and Wildlife Commission or the tribal conservation department may order the closure of the harvest activity of any wild plant in a National Forest generally or with respect to a particular location, whenever the continuation of the harvest is likely to cause biological harm to the species involved.

(2) Every reasonable effort shall be made to consult with and obtain approval of the Tribe prior to ordering an emergency closure, but such closure may be ordered without consultation or approval if circumstance require.

(3) An emergency closure shall become effective immediately upon issuance or at such time or date as the closure order may direct. Such closure shall be communicated to the Tribe by the best and swiftest practical method.

(4) No member shall violate the terms, conditions or restriction of an emergency closure order issued pursuant to this section.

26.1706 Harvest and Other Location Restrictions.

(1) Tribal Wilderness, Research Natural Areas, and Special Use Areas Established. The following Great Lakes Indian Fish and Wildlife Commission document, as it may be amended from time to time, is hereby adopted and incorporated in this ordinance as if fully set forth herein, and no member shall fail to comply with the closures and other restrictions established by this document:

Tribal Wildernesses, Tribal Research Natural Areas, and Tribal Vehicle Permit Areas on National Forests, Version 1: [August 1998]

(2) Forest Service Administrative Sites. No member shall gather wild plants under authority of this ordinance on a Forest Service administrative site. For the purposes of this ordinance, a "Forest Service administrative site" means a specific site where an office, storage or other building or structure is located and maintained by the Forest Service as part of its operation and management of a National Forest. It is the member's responsibility to be certain about a Forest Service administrative site. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National

Forest District office.

(3) National Forest Campground.

(a) Gathering in Developed Campgrounds.

(i) Except as provided in subs (ii), no member shall gather wild plants under authority of this ordinance on any land located with a developed National Forest Campground. For the purpose of this ordinance, a “developed National Forest Campground” means a location that is clearly marked and identified as a campground by the Forest Service and on which improvements clearly have been made to develop and maintain the site as a campground. It is the member’s responsibility to be certain about a developed National Forest campground. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National Forest District office.

(ii) Except where firewood is provided at no cost by the campground or where firewood will be used while camping in the campground, no member shall gather firewood in a developed National Forest campground.

(b) Camping Fees and Length of Stay Restrictions. The Tribe and the Forest Service have entered in to a Memorandum of Understanding that will exempt members from certain camping fees and length of stay restrictions that the Forest Service requires of the general public in the National Forests. Once the Tribe and the Forest Service have entered into a campground fee and length of stay Exemption Agreement and accompanying Implementation Plan, and the Tribe has ratified the Agreement and Plan, no member shall fail to comply with the requirements and restrictions contained in the Agreement and Plan. Information about the Exemption Agreement and Implementation Plan can be obtained by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or local National Forest District office.

(4) Non-National Forest Lands. No member shall gather wild plants under authority of this ordinance on any land located within the boundaries of a National Forest that is not owned by the United States of America and part of a National Forest. This provision does not apply to or otherwise restrict any wild plant gathering on non-National Forest lands that is authorized by another tribal ordinance.

26.1707 Harvest of Trees Subject to a Timber Sale Contract or Located Within a Forest Service Timber Sale Contract Area.

(1) No member shall gather a tree under authority of this ordinance without a permit issued pursuant to subs. (4) that is subject to the harvest rights of another in a valid Forest Service timber sale contract. Sometime these trees marked with orange, green or yellow paint. However, it is the member's responsibility to be certain about trees that are subject to a valid Forest Service timber sale contract. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National Forest District office.

(2) Within an open Forest Service Timber Sale Contract Area as defined in subs. (3), no member shall undertake any of the following activities under authority of this ordinance without a permit issued pursuant to subs. (4):

- (a) Cut down any live tree;
- (b) Remove the bark of any live tree;
- (c) Trim or remove the branches from the top half of any live tree; or
- (d) Trim or remove the branches or other parts, except cones, of any tree that has been cut down by another person.

(3) For the purposes of this ordinance, an "open Forest Service Timber Sale Contract Area" means a defined location of a National Forest which has been delineated by the Forest Service for the purposes of a timber sale offering and for which a valid Forest Service timber sale contract has been executed. Typically, a Forest Service Timber Sale Contract Area is marked with blue paint on trees around the perimeter of the Area. It is the member's responsibility to be certain about an open Timber Sale Contract Area. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National Forest District office.

- (4)
 - (a) The tribal conservation department, after first consulting with the Forest Service, is authorized to issue permits under this section on such terms and conditions as it deems necessary and appropriate.
 - (b) No member shall fail to comply with the terms and conditions of a permit issued pursuant to this section.

26.1708 Harvest of Certain "Marked" Trees.

(1) No member shall cut down any tree that has been designated with any of the following markings, and no member shall remove, alter or deface any of the following markings:

(a) Blue Paint. Blue paint designated the boundaries of a payment unit within a Forest Service Timber Contract Sale Area;

(b) Red Paint. Red paint indicates boundaries between National Forest land and other ownerships, or may designate a witness tree at a legal corner;

(c) White Paint Stripes or Other White Bands. White stripes or bands indicate a tree being used to collect cones or seeds for nursery stock; or

(d) Metal or Wood Forest Service Signs. These signs designate property or National Forest boundaries, indicate legal corners or other survey data, indicate legal nursery stock, or provide other similar information.

26.1709 Permissible Conduct/Assistance by Non-Members.

(1) Conduct which is not expressly prohibited, restricted or otherwise regulated by this ordinance shall be deemed permissible.

(2) Except as provided in subs. (3) or as otherwise provided herein, nothing in this ordinance shall be construed to prohibit a member from gathering in a National Forest with any other person who is not a member of the Band, provided that such other person possesses a license or permit, or is otherwise not prohibited from engaging in the activity involved and complies with applicable laws.

(3) No member shall allow any person who is not a member to assist, and no such person shall assist, in the activities authorized by this ordinance except that persons of the member's immediate family, including but not limited to grandparents, parents, spouses, and siblings, may assist the member provided the member is present when the assistance is rendered.

CHAPTER XVIII: ENFORCEMENT

26.1801 Enforcement by Deputized Conservation Wardens and Issuance of Citations.

(1) Any provision of this ordinance may be enforced by tribal conservation wardens or by conservation wardens of the Great Lakes Indian Fish and Wildlife Commission. Said Commission wardens are hereby deputized by the Tribe as tribal conservation wardens for the purposes of enforcing this ordinance.

(2) Such Tribal and Commission wardens may issue a citation on a form approved by the Tribe or tribal court to any person whose conduct is regulated by the provisions of this ordinance upon reasonable belief that such person has violated or breached a provision of this ordinance.

26.1802 Search and Seizures; When Authorized.

Tribal, Great Lakes Indian Fish and Wildlife Commission conservation wardens, and properly identified Forest Service law enforcement officers are empowered to:

(1) Conduct a search of an object, place or person whose conduct is regulated by the provisions of this ordinance, and may seize things when the search is made:

- (a) with consent;
- (b) pursuant to a valid search warrant;
- (c) with the authority and within the scope of a right of lawful inspection as provided in this section;
- (d) incident to the issuance of a lawfully issued citation under this ordinance; or
- (e) as otherwise authorized by law or by the provisions of this ordinance;

(2) Conduct routine inspections, in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities, of vessels, boats, wagons, trailers, automobiles, snowmobiles, off-highway vehicles, containers, packages, and other receptacles contained therein, utilized by a person in a harvest activity authorized by this ordinance and of record of commercial transactions required under this ordinance which have not yet been forwarded to the tribal conservation department;

(3) Execute and serve warrants and other process issued by the tribal court in accordance with applicable law;

(4) Stop any automobile or other vehicle as part of a lawful inspection authorized by this section or if the person reasonably suspects there is a violation or breach of this ordinance;

(5) With or without a warrant, open, enter and examine vessels, boats, wagons, trailers, automobile, vehicles snowmobiles, off-highway vehicles, and packages and other receptacles contained therein, in which the person has probable cause to believe that contraband wild plants, may be contained or pursuant to a lawful inspection authorized by this section; and

(6) Seize and hold subject to the order of the tribal court any alleged contraband or property which such person reasonably believes may be needed as evidence in connection with the institution of proceedings in tribal court or any property otherwise authorized to be seized by the provisions of this ordinance.

26.1803 Seized Items.

Any wild plant which is seized in connection with cases referred to Tribal Court for prosecution shall be turned over to the Tribe. No seized wild plant shall be returned by the tribal court or tribal officials to a convicted violator, his or her immediate family or other member of the gathering party.

26.1804 Penalties.

Any person who, for himself or herself, or by his or her agent, servant or employee, or as an agent, servant or employee of another, violates this ordinance, shall be liable as follows:

(1) For any violation, a civil remedial forfeiture of not more than \$5000.00;

(2) For any violation, a revocation or suspension of off-reservation National Forest gathering privileges for a period of time within the discretion of the court;

(3) For any violation, the court may order a natural resources assessment not to exceed 75% of the amount of the civil remedial forfeiture; and

(4) For any violation, appropriate court costs within the discretion of the court.

26.1805 Civil Damages.

(1) In addition to any other penalty allowed by this ordinance, the tribal

court may award to the Tribe or, in addition to an action to impose penalties, the Tribe may bring a civil action for recovery of, damages against any person unlawfully gathering or having unlawfully in possession any wild plant taken from a National Forest. The sum assessed for damages for each wild plant shall not be less than the amount stated in this section:

(a) Any endangered or threatened species protected under this ordinance, \$875.00.

(b) Any wild plant for which a fair market value can be established, the fair market value.

(c) Any other wild plant, \$17.50.

(2) Where the Forest Service or another person or entity has sustained damages as a result of unlawful harvest, the court may, with the consent of the Tribe, award all or part of any civil damages obtained pursuant to this section to the Forest Service or to such person or entity.

26.1806 Enhancement of Forfeiture and Penalties.

Penalties. Upon conviction of any member for a violation of this ordinance when such person has been convicted of a previous violation of this ordinance within a period of one year, the court may enhance any civil remedial forfeiture or other penalty as the court deems appropriate.

26.1807 Collection of Money Penalties.

Enforcement of the money penalties imposed pursuant to this ordinance may be had through the collection of penalties from funds of the violator held by the Tribe, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

26.1808 Parties to a Violation.

(1) Whoever is concerned in the commission of a violation of this ordinance shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

- (a) directly commits the violation;
- (b) aids or abets the commission of it; or
- (c) is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.

26.1809 Harvesting After Revocation or Suspension.

No person whose off-reservation National Forest wild plant gathering privileges have been revoked or suspended pursuant to Section 26.1804(2), shall gather any wild plant in a National Forest, the harvest of which is regulated by this ordinance, during such revocation or suspension.

26.1810 Schedule of Money Penalties; No Contest.

The tribal court, in consultation with the Tribe's Governing Body, may adopt a schedule of forfeitures to be imposed by the court upon the receipt of an admission that a violation of this ordinance has occurred, or a plea of not contest, which may be done either in person or in writing. This schedule shall not bind the court as to forfeitures assessed by the court after adjudicating a violation where the defendant has entered a plea of not guilty.

26.1811 Hearings in Tribal Court.

The tribal court shall adjudicate all matters arising under this ordinance pursuant to the provisions of the Tribal Court Code.

26.1812 Members of Other Tribes, Tribal Court Adjudications.

The tribal court is authorized to adjudicate alleged violations by any member of a signatory tribe of any off-reservation National Forest gathering code of that Tribe provided:

- (1) The relevant provisions of such ordinance are in essential conformance with the parallel provisions of this ordinance; and
- (2) The other Tribe has authorized the adjudication.

CHAPTER XIX: SPECIFIC HARVEST REGULATIONS

26.1901 Conifer Boughs.

No member shall:

- (1) Cut down a tree for the purpose of gathering conifer boughs;
- (2) Remove boughs from the upper half of a tree; or
- (3) Gather for subsequent sale northern white cedar or hemlock boughs.

26.1902 Princess Pine.

(1) No member shall gather for subsequent sale any Lycopodium species except Lycopodium obscurum, Lycopodium dendroidium, or Lycopodium hickeyi.

26.1903 Firewood.

(1) No member shall cut any live tree or gather any salvage timber for firewood unless the tree is included within a National Forest "firewood sale," other area designated for firewood either generally or on a case-by-case basis, or as permitted pursuant to a valid sugarbush site permit under Section 26.1905.

(2) No member shall cut any standing dead tree more than 100 feet from the cleared edge of any road where it is legal for highway vehicles to travel.

(3) No member shall cut any standing dead tree within 200 feet of any ponds, lake, stream or river.

(4) No member shall use a farm tractor, rubber tired skidder, or similar vehicle for gathering firewood without written permission from the Tribe.

26.1904 Ginseng.

No member shall gather ginseng from November 1 through August 31.

26.1905 Maple Sap/Sugarbushes.

(1) No member shall gather maple sap without a sugarbush site permit valid for a designated tribal sugarbush or such other location approved by the tribal conservation department in consultation with the Forest Service.

(2) "Designated tribal sugarbush" means a specific site identified and established by the tribal conservation department, in consultation with the Forest Service, for which a site management plan has been developed and for which a sugarbush site permit has been issued.

(3) The tribal conservation department may issue a sugarbush site permit to one or more members and may impose such terms and conditions as it deems

necessary or appropriate.

(4) No member shall fail to comply with the terms and conditions of a sugarbush site permit.

26.1906 Harvest of Live Trees and Salvage Timber.

(1) Harvest for Sale as "Lumber" or Similar Wood Products.

(a) No member shall under authority of this ordinance cut down any live tree or gather any salvage timber for the purposes of selling all or part timber for the purposes of selling all or part of it, or any product derived from its wood, as bolts, pulpwood or lumber.

(b) No member shall sell under authority of this ordinance all or part of any tree, or any product derived from its wood, as bolts, pulpwood or lumber.

(2) Harvest for Construction Purposes.

(a) No member or tribal entity shall cut down any live tree or gather any salvage timber under authority of this ordinance for the purposes of constructing a structure or dwelling, as those terms are defined in subs. (b), without a valid structure construction harvest permit issued pursuant to subs. (c).

(b) (i) For the purposes of this section, the terms "structure or dwelling" mean a building or other larger structure to be used for residential, commercial, or storage purposes, and include, for example, a home, cabin, garage, storage shed, store, office building, and manufacturing facility. The terms do not include smaller structures, such as hunting blinds, fish houses or sugarbush shacks, that are used in the exercise of treaty-reserved hunting, fishing or gathering rights. It is the member's responsibility to verify that the intended construction use is not prohibited by this ordinance. Any uncertainty should be resolved by contacting the tribal conservation department or the Great Lakes Indian Fish and Wildlife Commission.

(ii) For the purposes of this section, "tribal entity" means an agency, business, partnership, corporation, committee, body or other entity, and the officers, employees and agents thereof, that is chartered, directed, controlled, or majority

owned by the Tribe.

- (c) (i) The tribal conservation department is authorized to issue construction harvest permits on such terms and conditions as it deems appropriate.
- (ii) Prior to issuing a construction harvest permit, the tribal conservation department must consult with and obtain the concurrence of the Forest Service.

PART III
OFF-RESERVATION CONSERVATION CODE FOR THE 1837
MINNESOTA CEDED TERRITORY

PART IV
OFF-RESERVATION CONSERVATION CODE FOR THE 1842
MICHIGAN CEDED TERRITORY OFF-RESERVATION TREATY
HUNTING AND TRAPPING ORDINANCE

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**MODEL OFF-RESERVATION CONSERVATION CODE FOR THE 1837 MINNESOTA
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¹ This version of the 1837 Minnesota Ceded Territory Model Code is intended to incorporate and implement all stipulations and court decisions entered in Mille Lacs Band v. State of Minnesota, Civ. No. 3-94-1226, United States District Court, District of Minnesota, Third Division, as of January 29, 1997. It is no less restrictive than the Bands' Model Code proposed in that case, but modifies the proposed Model to comply with the court's rulings and for the sections to be consistently numbered.

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**1837 TREATY CONSERVATION CODE FOR THE
MINNESOTA CEDED TERRITORY
OF THE**

CHAPTER 1 - INTRODUCTION

1.01 **Title.** This ordinance shall be known as the 1837 Treaty Conservation Code for the Minnesota Ceded Territory of the _____.

1.02 **Authority.** This ordinance is enacted pursuant to _____.

1.03 **Purpose.** It is the purpose of this ordinance to provide an orderly system for Band control and regulation of the Band's hunting, fishing and gathering rights on the lands and waters located in the State of Minnesota which were ceded in the Treaty of 1837, 7 Stat. 536, ("Minnesota Ceded Territory"), which:

(1) promotes public health and safety and the conservation and management of fish, wildlife and plant populations in the Minnesota Ceded Territory; and

(2) is consistent with the 1837 Treaty, applicable Federal law, and the opinions, orders and decrees entered by the Court in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.).

1.04 **Territorial Applicability.** This ordinance shall govern all treaty hunting, fishing and gathering activities of Band members within the Minnesota Ceded Territory. No member shall hunt, fish or gather within the boundaries depicted on Figure 1 hereto, except as permitted by the Mille Lacs Band.

1.05 **Effective Date.** Except as otherwise provided in specific sections, the provisions of this

ordinance shall be effective on _____.

1.06 Interpretation. The provisions of this ordinance:

- (1) Shall be interpreted and applied as minimum requirements applicable to the exercise of treaty rights subject to this ordinance;
- (2) Shall be construed liberally in favor of the Band;
- (3) Shall be construed consistently with the 1837 Treaty, applicable Federal law, and the opinions,

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orders and decrees entered by the Court in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.); and

- (4) Shall not be deemed a limitation or repeal of any other tribal power or authority.

1.07 Severability and Immunity. If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Band does not waive and to the contrary, asserts to the fullest extent allowed by law immunity on its part and that of its officers, employees, and/or agents from any claims, actions or damages that may arise under or result from this ordinance.

1.08 Repeal of Inconsistent Ordinances, Resolutions and Orders. All Band ordinances, resolutions and orders inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other ordinance, resolution or order, the provisions of this ordinance shall govern.

1.09 Religious or Ceremonial Use of Natural Resources.

- (1) Except as provided in paragraphs (2) and (3) below and section 3.27, nothing in this ordinance shall prohibit the harvest or use of any resource for religious or ceremonial purposes in accordance with the traditions and customs of the Band.
- (2) No member shall harvest any resource for religious or ceremonial purposes without written authorization from the Department of Natural Resources and a permit issued by the Commissioner pursuant to this section, and no member shall fail to comply with the terms and conditions of any such permit.
- (3) In reviewing and taking action on any request for a permit to harvest a resource for religious or ceremonial purposes, the Commissioner shall take into account the biological impact of the harvest and shall ensure compliance with all provisions of the 1837 Treaty, applicable Federal law, and the opinions, orders and decrees entered by the Court in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.).

1.10 Additional Measures. The Department of Natural Resources is authorized to issue orders that impose measures regulating hunting, fishing and gathering by Band members in the Minnesota Ceded Territory that are in addition to and more restrictive than the provisions of

this ordinance.

CHAPTER 2 - GENERAL DEFINITIONS

2.01 General Definitions. The following terms, wherever used in this ordinance, shall be construed as follows:

- (1) **ABand,@ATribe,@ and ATribal@** mean or refer to the _____. When used in the plural, "Bands" or "Tribes" refers to all plaintiff and plaintiff-intervenor Bands in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.).
- (2) **ACarcass@** means the dead body of any wild animal to which it refers, and, unless clearly indicated to the contrary by a specific provision of this ordinance in particular circumstances, includes the hide or skin and head.
- (3) **ACommercial Harvesting@** shall mean any harvesting of a natural resource in which the resource harvested, or any portion thereof, is sold, but shall not include harvesting of natural resources for subsistence uses.
- (4) **ACommission@** means the Great Lakes Indian Fish and Wildlife Commission.
- (5) **ACommissioner@** means the Commissioner of Natural Resources of the Mille Lacs Band, unless the context expressly indicates otherwise.
- (6) **ADepartment of Natural Resources@** means the Band's conservation department, unless the context expressly indicates otherwise.
- (7) **AEndangered or Threatened Species@** means any wild animal or wild plant which is contained on either the federal (50 CFR Sections 17.11 and 17.12) or the Commissioner's endangered and threatened species lists, as may be amended from time to time, or which the Band's governing body from time to time may declare as endangered or threatened. The Commissioner's list shall, at a minimum, initially contain all species listed by the State of Minnesota as threatened or endangered as of January 1, 1995, but may be revised hereafter in accordance with the provisions in the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226

(D. Minn.).

- (8) **AFishing@** includes taking, capturing, killing or attempting to take, capture or kill fish of any variety in any manner. When the word "fish" is used as a verb, it shall have the same meaning as the word "fishing" as defined herein.
- (9) **AGame fish@** includes all varieties of fish except rough fish and minnows; **Arough fish@** means carp, buffalo, sucker, sheepshead, bowfin, burbot, cisco, gar, goldeye and bullhead; **Aminnows@**

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includes (1) the minnow family, Cyprinidae, except carp and goldfish; (2) members of the mudminnow family; Umbridae; (3) members of the sucker family, Catostomidae, not over 12 inches in length; (4) bullheads, ciscoes, lake white fish, goldeyes, and mooneyes, not over seven inches long; and (5) leeches.

- (10) **AGathering@** means to take or acquire or attempt to take or acquire possession of any wild plant or any part thereof.
- (11) **AHunt@ or AHunting@** includes shooting, shooting at, taking, catching, or killing any wild animal or animals, or attempting to do any of the foregoing, except that "hunt" or "hunting" does not include the recovery of any wild animal which has already been lawfully reduced to possession.
- (12) **AMember@** means a member of the Band.
- (13) **AMinnesota Ceded Territory@** means all lands and waters in Minnesota that were ceded by the Chippewa to the United States of America in the Treaty of 1837, 7 Stat. 536.
- (14) **AMotor Vehicle@** means a self-propelled vehicle or a vehicle propelled or drawn by a self-propelled vehicle that is operated on a highway, on a railroad track, on the ground, in the water, or in the air.
- (15) **ANon-member@** means a person who is not a member of any one of the Bands.
- (16) **APossession@** means having killed, harvested, or otherwise obtained or acquired any wild animal or wild plant subject to the provisions of this ordinance.
- (17) **AProtected Species@** means any wild animal or wild plant, the hunting, fishing, trapping or gathering of which is prohibited by Section 3.31 of this ordinance.
- (18) **ASubsistence Uses@** shall mean the use of natural resources for direct personal or family consumption by Band members as food, medicine, shelter, fuel, clothing, tools or transportation; for the making or selling of handicraft articles; or for barter. For purposes of this section, the term:
 - (a) **Afamily@** means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis;
 - (b) **Ahandicraft articles@** means articles produced, decorated or fashioned in the exercise of traditional Indian handicrafts such as carving, weaving, beading, drawing or painting, without the use of mass copying devices; and

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- (c) **Abarter@** means the sale or exchange of natural resources or parts thereof for subsistence uses between members of the Bands.
- (19) **ATrapping@** includes the taking of, or attempting to take, any wild animal by means of setting or operating any device, mechanism or contraption that is designed, built or made to close upon, hold fast, or otherwise capture a wild animal or animals. When the word "trap" is used as a verb, it shall have the same meaning as the word "trapping" as defined herein.
- (20) **AUnprotected Species@** means any wild animal or wild plant, the hunting, fishing, trapping or gathering of which is not expressly authorized, prohibited or regulated by this ordinance.
- (21) **AWild animal@** means any mammal, bird, fish, or other creature of a wild nature

endowed with sensation and the power of voluntary motion.

- (22) **AWildlife@** means all varieties of wild animals.
- (23) **AWild Plant@** means any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem, and includes wild rice, maple sap, ginseng, birch bark and timber.
- (24) **AWorking day@** means Monday, Tuesday, Wednesday, Thursday or Friday, unless such day is a Band holiday.

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CHAPTER 3 - GENERAL

3.01 Regulatory Authority.

- (1) The Band asserts legal authority to regulate the harvesting, use and disposition of all wild plants and wild animals by its members within the Minnesota Ceded Territory under the 1837 Treaty.
- (2) An officer of one of the Bands or other law enforcement official authorized to enforce the provisions of this ordinance may seize forthwith wherever found:
 - (a) any wild plant or wild animal, or carcass or part thereof, taken or reduced to possession in violation of this ordinance; or
 - (b) any wild plant or wild animal, or carcass or part thereof, lawfully taken or reduced to possession under this ordinance, upon violation of the ordinance relating to the possession, use, giving, sale, barter or transportation of such wild plant or wild animal, or carcass or part thereof.

3.02 Permits and Identification.

- (1) No member shall engage in the exercise of 1837 treaty rights regulated by this ordinance without a validly issued Band natural resources harvesting permit or such other permit as this ordinance may require validated for the particular type of activity to be engaged in and for the particular season in question.
- (2) No member shall engage in the exercise of treaty rights regulated by this ordinance except while carrying a valid color picture identification card issued by the Band.
- (3) Except as otherwise provided in this ordinance, the Department of Natural Resources is authorized to issue to members permits required by this ordinance and establish the form of such permits, provided that such form shall include the member's name, address and Band enrollment number.
- (4) **[Open.]**
- (5) No member shall refuse to display his or her identification documents or any other document or permit required by this ordinance to any Band, state, local or federal law enforcement officer upon request by such officer.

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(6) No member to whom any permit has been issued under this ordinance shall fail or refuse to provide harvest reports and data, and such other relevant information, as may be lawfully requested by one of the Bands', state, local and federal law enforcement officers or the Department of Natural Resources.

(7) Permits, carcass tags and registration tags issued or used pursuant to this ordinance in connection with any species for which a harvest quota is established shall be numbered sequentially and shall be indexed by number making information regarding the identity of the person who has been issued a tag or permit promptly accessible.

3.03 Waste of Natural Resources. No member shall unreasonably waste, injure, destroy, or impair natural resources while engaging in the exercise of treaty rights regulated by this ordinance.

3.04 Larceny of Natural Resources. No member shall, without permission of the owner, molest, disturb or appropriate any wild plant or wild animal, or the carcass or part thereof, which has been lawfully reduced to possession by or is otherwise owned by another.

3.05 Use of Poison and Explosives; Pole Traps.

(1) No member shall take, capture, or kill or attempt to take, capture or kill any wild animal with the aid of dynamite or any other explosive or poisonous or stupefying substances or devices.

(2) No member shall place in or allow to enter any waters explosives which might cause the destruction of any wild animal, except when authorized by the Commissioner, or have in his or her possession or under his or her control upon any waters any dynamite or other explosives or poisonous or stupefying substances or devices for the purpose of taking, catching or killing wild animals.

(3) No member shall use, set, lay or prepare in or allow to enter any waters any lime, poison, fish berries, or any other substance deleterious to fish life; or use baits containing poison of any description in any forests, fields or other places where such baits might destroy or cause the destruction of wild animals; and the possession of any such poison, poison baits or substances deleterious to wild animals by a member while exercising treaty rights regulated by this ordinance is prima facie evidence of a violation of this section.

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(4) No member shall take, capture or kill or attempt to take, capture or kill any bird by setting or operating any trap or device designed, built or used to capture birds on a pole, post, tree stump or any other elevated perch more than three (3) feet above the ground.

3.06 Throwing Refuse in Waters; Abandoning Automobiles, Boats or Other Vehicles. No member shall deposit, place or throw into any waters, or leave upon the ice, any cans, bottles, debris, refuse or other solid waste materials; and no member shall abandon any automobile, boat or other vehicle in any waters. Any automobile, boat or other vehicles not removed within forty-eight hours shall be rebuttably presumed to be abandoned.

3.07 Fish Stocking; Undesirable Exotic Aquatic Plants or Wild Animals.

- (1) Except in connection with a harvest activity authorized by this ordinance or as otherwise permitted by controlling law, a member may not import, transport or stock in any waters in the Minnesota Ceded Territory live fish eggs, fresh spawn, or immature or adult fish of any species or any mussel, turtle or crayfish without a permit issued by the Commissioner.
- (2) (a) The Commissioner is authorized to establish a ceded territory program to prevent and curb the spread of harmful exotic species. This program may include a long-term plan, which may include specific plans for individual species, for ceded territory wide management of harmful exotic species. Any exotic species program or harmful exotic species management plan may be developed in conjunction with any corresponding state management plan required by state law. The Commissioner may adopt the state management plan, or relevant portions thereof, as the ceded territory program.
- (b) For the purposes of this ordinance, the term "exotic species" means a wild animal or plant species that is not naturally present or reproducing within the ceded territory or that does not naturally expand from its historic range in the ceded territory, and the term "harmful exotic species" means an exotic species that can naturalize and either:
 - (i) causes or may cause displacement of or otherwise threaten native species in their natural communities; or
 - (ii) threaten or may threaten natural resources or their use in the ceded territory.
- (3) (a) No later than May 1 of each year and at such other times during the year as may be necessary, the Commissioner shall designate any waters of the ceded territory as

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infested waters if the Commissioner determines that they contain a harmful exotic species that could spread to other waters if use of the water and related activities are not regulated to prevent this. The Commissioner's designation of infested waters, if any, may incorporate the parallel designations under Minnesota state law. The notice that the Commissioner provides to members of the infested waters designations may be the same notice provided for the same waters by the Minnesota Department of Natural Resources under state law. Should the Commissioner fail or choose not to make any infested waters designations required under this subsection, the infested waters designations by the Minnesota Department of Natural Resources under state law, and the accompanying public notice of those designations, shall be deemed the Commissioner's designations for the purposes of this ordinance.

- (b) For the purposes of this ordinance, the term "infested waters" means waters and waterbodies identified by the Commissioner as having populations of select harmful exotic species such as zebra mussel (all species of the genus *Dreissena*), Eurasian milfoil (*Myriophyllum spicatum*), ruffe (*Gymnocephalus cernuus*), spiny water flea, or white perch (*Morone americana*).
- (c) No member shall take any wild animal from infested waters for bait purposes.
- (d) No member shall fail to:
 - (i) dry for a minimum of 10 days or freeze for a minimum of 2 days before use in noninfested waters any net or associated piece of equipment, including any trap, buoy, anchor, stake or line;
 - (ii) remove all aquatic vegetation from nets or associated equipment when they are removed from infested waters; or

- (iii) notify the Commissioner or a Band or Commission warden when removing nets from infested waters and before re-setting those nets in noninfested waters.
- (e) No member shall use water from infested waters to transport fish without a permit from the Commissioner.
- (f) No member leaving infested waters identified as having populations of zebra mussels or spiny water flea shall fail to drain bait containers, other boating related equipment holding water, and livewells and bilges by removing the drain plug before transporting the watercraft and associated equipment on public roads.

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- (g) No member shall transport infested waters on a public road or off property riparian to infested waters except as otherwise authorized by Minnesota state law or under special permit issued by the Commissioner, and no member shall divert infested waters except in compliance with Minnesota state law or in accordance with a special permit issued by the Commissioner.
- (4) (a) No later than May 1 of each year and at such other times during the year as may be necessary, the Commissioner shall designate waters of the ceded territory as having limited infestations of Eurasian milfoil (*Myriophyllum spicatum*). The Commissioner's designation of limited infestations, if any, may incorporate the parallel designations under Minnesota state law. The notice that the Commissioner provides to members of limited infestations designations may be the same notice provided for the same waters by the Minnesota Department of Natural Resources under state law. Should the Commissioner fail or choose not to make any limited infestation designations required under this subsection, the limited infestation designations by the Minnesota Department of Natural Resources under state law, and the accompanying public notice of those designations, shall be deemed the Commissioner's designations for the purposes of this ordinance.
- (b) The Commissioner, or his or her designee, may mark and delineate areas of infestation of Eurasian Milfoil where control is planned in water bodies identified as having limited infestations. No member shall enter an area of limited infestation of Eurasian milfoil marked or delineated by the Commissioner or by the Minnesota Department of Natural resources under state law, except:
 - (i) in emergency situations where property or human life is endangered;
 - (ii) by enforcement, emergency, resource management and other Band government personnel or their agents when performing official duties; or
 - (iii) for the purpose of access via the shortest and most direct route through a marked or delineated area by owners or lessees of land adjacent to marked or delineated areas who do not have other water access to their land.
- (5) (a) The following species are prohibited exotic species for the purposes of this ordinance:

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- (i) Aquatic Plants: Eurasian milfoil (*Myriophyllum spicatum*); hydrilla (*Hydrilla verticillata*); European frog-bit (*Hydorchairs morsus-ranae*); flowering rush (*Butomus umbellatus*); any variety, hybrid, or cultivar of purple loosestrife (*Lythrum salicaria*, *Lythrum virgatum*, or any combinations); and water chestnut (*Trapa natans*).

(ii) Fish: grass carp (*Ctenopharyngodon idella*); rudd (*Scardinius erythrophthalmus*); round goby (*Neogobius melanostomus*); ruffe (*Gymnocephalus cernuus*); sea lamprey (*Petromyzon marinus*); and white perch (*Morone americana*).

(iii) Invertebrates: rusty crayfish (*Orconectes rusticus*); and zebra mussel species (all species of the genus *Dreissena*).

(iv) Mammals: Asian raccoon dog, also known as finnraccoon (*Nyctereutes procyonoides*); European rabbit (*Oryctolagus cuniculus*); and any strain of nutria (*Myocastor coypu*).

(v) Any other species so designated by the Commissioner taking into account the likelihood of introduction of the species if it is allowed to enter or exist in the ceded territory; the likelihood that the species would naturalize in the ceded territory were it introduced; the magnitude of potential adverse impacts of the species on native species and on use of natural resources; the ability to eradicate or control the spread of the species once it is introduced in the ceded territory; and other criteria the Commissioner deems appropriate.

(b) No member shall possess, import, purchase, sell, propagate, transport, or introduce a prohibited exotic species, except:

(i) under a permit issued by the Commissioner for the purposes of disposal, control, research or education;

(ii) when being transported to the Department of Natural Resources, or another destination as the Commissioner may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;

(iii) when being transported for disposal as part of a harvest or control activity under a permit issued by or as specified by the Commissioner;

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(iv) when a specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;

(v) in the form of herbaria or other preserved specimens;

(vi) when being removed from watercraft and equipment, or caught while fishing, and immediately returned to the water from which they came; or

(vii) as the Commissioner may otherwise prescribe by order.

(c) The Commissioner, his or her designees, or any warden authorized to enforce this ordinance, may seize or dispose of all specimens of prohibited exotic species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced into the ceded territory by members.

(6) Except as otherwise provided in this ordinance, pursuant to a special permit issued by the Commissioner, or as otherwise permitted by controlling law, no member shall place or introduce any exotic species within the ceded territory.

(7) No member who allows or causes the introduction of a wild animal that is an exotic species shall fail to notify the Commissioner, the Commission, or a warden authorized to enforce this ordinance within 48 hours after learning of the introduction. The member shall make every reasonable attempt to recapture or destroy the introduced animal.

(8) (a) No member shall transport aquatic macrophyte on any state forest road or any other public road except as provided in this subsection. For the purposes of this ordinance, the term "aquatic macrophyte" means a nonwoody plant, either a submerged, floating leafed, floating, or emergent plant that naturally grows in water or hydric soils.

(b) Unless otherwise prohibited by law, a member may transport aquatic macrophytes:

(i) that are duckweed in the family *Lemnaceae*;

(ii) for disposal as part of a harvest or control activity conducted under an aquatic plant management permit issued by the Commissioner or as otherwise specified by the Commissioner;

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(iii) for purposes of constructing shooting or observation blinds in amounts sufficient for that purpose, provided the aquatic acrophytes are emergent and cut above the waterline;

(iv) when legally purchased or traded by or from commercial or hobbyist sources for aquarium or ornamental purposes;

(v) that are legally harvested if in a motor vehicle;

(vi) to the Department of Natural Resources, or another destination as the Commissioner may authorize, in a sealed container for purposes of identifying a species or reporting the presence of a species;

(vii) when transporting an aquatic plant harvester used in a properly authorized harvest or control activity to a suitable location for purposes of cleaning any remaining aquatic macrophytes;

(viii) that are legally harvested wild rice; or

(ix) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl season.

(9) (a) No member shall place or attempt to place into waters of the ceded territory a watercraft, trailer, or plant harvesting equipment that has aquatic macrophytes, zebra mussels, or prohibited exotic species attached. A warden authorized to enforce this ordinance may order:

(i) the removal of aquatic macrophytes or prohibited exotic species from a trailer or

watercraft before it is placed into waters of the ceded territory;

(ii) confinement of the watercraft at a mooring, dock, or other location until the watercraft is removed from the water; and

(iii) removal of a watercraft from waters of the ceded territory to remove prohibited exotic species if the water has not been designated by the Commissioner as being infested with that species.

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(b) No member shall fail to obey an order of a duly authorized warden to remove prohibited exotic species from any watercraft, trailer, or plant harvesting equipment.

(10) For the purposes of this section, the term "watercraft" means a contrivance used or designed for navigation on water and includes seaplanes.

3.08 Scientific Investigation.

(1) The Commissioner may conduct or authorize the Commission's Biological Services Division to conduct investigations of wild animals and wild plants in order to develop scientific information relating to population, reproduction, distribution, habitat needs, and other biological data in order to advise the Band on conservation measures designed to ensure the continued ability of wild animals and wild plants to perpetuate themselves, in accordance with the provisions in the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.) regarding scientific investigations.

(2) The Commissioner may for scientific purposes engage in or authorize the Commission's Biological Services Division to engage in the harvest of protected wild animals or wild plants on such terms and conditions as the Commissioner deems appropriate.

(3) The Commissioner may consult the Minnesota Department of Natural Resources and appropriate Federal Agencies to facilitate coordination and data comparability of scientific investigations.

(4) The Commissioner, with the approval of a majority of the Bands, may restrict hunting, fishing and gathering by Band members in order to facilitate scientific investigations undertaken under this section or by the Minnesota Department of Natural Resources or the Federal Government.

(5) No member shall tag or otherwise mark a live fish for identification without a permit from the Commissioner.

3.09 Seasons. No member shall engage in the exercise of treaty rights regulated by this ordinance, except during the respective seasons established pursuant to this ordinance.

3.10 Possession of Wild Plants or Wild Animals Taken During Closed Season. No member shall have in his or her possession or under his or her control at any time any

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wild plant or wild animal, or the carcass or any part thereof, showing that the same has been taken during the closed season for such plant or animal.

3.11 Bag Limits; Possession Limits. No member shall have in his or her possession or under his or her control any wild plant or wild animal in excess of the bag or possession limits or above or below the size limits established by this ordinance

3.12 [Open.]

3.13 Sharing of Permits and Tags. Except as otherwise provided in this ordinance, no member shall lend, share, give, sell, barter or trade, or offer to lend, share, give, sell, barter or trade to any person any identification document, permit or tag issued pursuant to this ordinance.

3.14 Harvesting with Another's Permit Prohibited. Except as otherwise provided in this ordinance, no member shall hunt, fish, trap or gather any wild animal or wild plant while in possession of any permit or tag issued to another.

3.15 Shining Animals.

- (1) Definitions. As used in this ordinance:
- (a) "**Flashlight**" means a battery operated light designed to be carried and held by hand.
- (b) "**Light**" includes flashlights, automobile lights and other lights.
- (c) "**Shining**" means the casting of rays of light on a field, forest, or other area for the purpose of illuminating, locating or attempting to illuminate or locate wild animals.
- (2) Presumption. A person casting rays of light on a field, forest or other area which is frequented by wild animals is rebuttably presumed to be shining wild animals.
- (3) Shining Wild Animals While Hunting or Possessing Weapons Prohibited.

(a) Prohibition. Except as otherwise provided in subs. (b), no member shall use or possess with intent to use a light for shining wild animals while the member is hunting or in possession of a firearm, bow and arrow or crossbow.

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(b) Exceptions. This subsection shall not apply to:

- (i) a member who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot pursuant to the express provisions of this ordinance which allow shining during the open season for the animals hunted;
- (ii) a person authorized to enforce the provisions of this ordinance on official business;
- (iii) an employee of the Band or the Commission on official business;
- (iv) a person authorized by the Band or the Commission to conduct a game census; or
- (v) a member engaged in hunting authorized by Section 6.20 of this ordinance.

(4) Shining Wild Animals After 10 P.M. During Certain Times of the Year Prohibited.

(a) Prohibition. Except as otherwise provided in subs. (b), no member shall use or possess with intent to use a light for shining wild animals between 10 p.m. and 7 a.m. from Labor Day through December 31.

(b) Exceptions. This subsection shall not apply to:

- (i) a member who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot pursuant to the express provisions of this ordinance which allow shining during the open season for the animals hunted;
- (ii) a member who possesses a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or unprotected animals, provided that the members may only have blank cartridges or shells in personal possession;
- (iii) a person authorized to enforce the provisions of this ordinance on official business;
- (iv) an employee of the Band or the Commission on official business;

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- (v) a person authorized by the Band or the Commission to conduct a game census;
- (vi) if the Commissioner specifically permits a member to use or possess a light for shining wild animals during these times;

(vii) a member engaged in hunting authorized by Section 6.20 of the

ordinance; or

(viii) a member engaged in fishing authorized by Section 9.06 of this ordinance.

3.16 Duties on Accidental Shooting. Any member who, while hunting any wild animal, discharges a firearm or arrow, and thereby injures or kills another person, shall forthwith give his or her name and address to such person if injured and render assistance to him or her as may be necessary and obtain immediate medical or hospital care, and shall immediately thereafter report such injury or death to the proper law enforcement authorities.

3.17 Failure to Report Hunting Accident. Every member who shall have caused or been involved in an accident in which another person has been injured by gunfire or by arrow while hunting or trapping, or shall have inflicted an injury upon himself or herself with a firearm or arrow while hunting or trapping, shall render or cause to be rendered a report to the Department of Natural Resources within ten (10) days after such injury.

3.18 Hunter Education Requirements and Restrictions on Hunting by Members Under 14 Years of Age.

(1) (a) Certificate of Accomplishment Required. Except as provided in subs. (b), no member born on or after January 1, 1977 may hunt while possessing a firearm, bow and arrow or crossbow unless the member has been issued a certificate of accomplishment under a Band hunter education and firearm safety course.

(b) Exceptions. A member may hunt while possessing a firearm, bow and arrow or crossbow without having been issued a certificate of accomplishment from a Band hunter education and firearm safety course when:

(i) the member has a certificate, license or other evidence indicating that he or she has completed a hunter safety course offered by another tribe,

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state or province and the course is substantially similar to the Band's hunter safety course; or

(ii) the member has successfully completed basic training in the U.S. Armed Forces, Reserves or National Guard.

(2) Additional Restrictions on Hunting by Members Under 14 Years of Age.

- (a) Persons Under 12 Years of Age. No member under 12 years of age may hunt while possessing a firearm, bow and arrow or crossbow unless authorized by the Department of Natural Resources.
- (b) Persons Under 14 Years of Age. No member under 14 years of age may hunt while possessing a firearm, bow and arrow or crossbow unless he or she is accompanied by a parent, guardian or other adult member designated by a parent or guardian.
- (c) Parental Obligation. No parent, guardian or member shall authorize or knowingly permit or encourage a member under 14 years of age to violate this section.

3.19 Hunting While Intoxicated.

- (1) No member shall hunt with a firearm, bow and arrow or crossbow while under the influence of an intoxicant or controlled substance to a degree that the member is incapable of safely using such weapon, or while a member has a blood alcohol concentration of 0.1% or more by weight of alcohol in the member's blood or 0.1 grams or more of alcohol in 200 liters of that person's breath.
- (2) A member hunting with a firearm, bow and arrow, or crossbow shall take or submit to a blood or breath test to determine the amount (if any) of intoxicant or controlled substance present if:
 - (a) the member has been lawfully issued a citation for violating section 3.19(1);
 - (b) the member has been involved while hunting in an accident resulting in property damage, personal injury, or death;
 - (c) the member has refused to take a preliminary screening breath test; or

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(d) a preliminary screening breath test was administered and indicated an alcohol concentration of 0.1% or more.

(3) If a member refuses to take a test required under section 3.19(2), the Band shall impose a civil penalty of \$500 and prohibit the member from hunting for one year.

3.20 Resisting Conservation Wardens . No member shall assault or otherwise resist or obstruct any law enforcement officer authorized to enforce the provisions of this ordinance in the performance of duty.

3.21 False Impersonation of Warden. No member shall falsely represent himself or herself to be a law enforcement officer authorized to enforce the provisions of this ordinance, or shall assume to act as such an officer, without having been first duly appointed.

3.22 General Restrictions on Hunting.

- (1) No member shall hunt on private lands unless the lands are open to the general public for hunting by operation of state law.
- (2) - (8) [Open.]
- (9) Color of Clothing. No member shall hunt any wild animal except waterfowl unless at least 50% of the member's outer clothing above the waist is of a highly visible color commonly referred to

as hunter orange, blaze orange, fluorescent orange, flame orange, or fluorescent blaze orange while hunting in a state hunting zone during the annual state firearm (not muzzle-loader) deer season, including any extension thereof, for that zone.

- (10) **[Open.]**
- (11) Transportation of Firearms, Bows and Crossbows.

(a) A member may not transport a firearm in a motor vehicle unless the firearm is:

- (i) unloaded and in a gun case expressly made to contain a firearm, and the case fully encloses the firearm by being zipped, snapped, buckled, tied, or otherwise fastened, and without any portion of the firearm exposed;

♦ Only lands in the Minnesota tree growth tax program, Minn. Stat. §§270.31-39 (1994), satisfy this criteria at present.

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(ii) unloaded and in the closed trunk of a motor vehicle; or

(iii) a handgun carried in compliance with state law.

(b) A person may not transport an archery bow or crossbow in a motor vehicle unless the bow is:

- (i) unstrung;
- (ii) completely contained in a case; or

(iii) in the closed trunk of a motor vehicle.

(12) Discharging Firearms and Bows and Arrows.

(a) **Restrictions related to highways.**

(i) A member may not discharge a firearm or an arrow from a bow or crossbow on, over, or across an improved public highway. A member may not discharge a firearm, bow or crossbow within the right-of-way of an improved public highway. The Commissioner may by order extend the application of this subsection to the taking of migratory waterfowl in designated locations.

(ii) A person may not discharge a firearm, bow or crossbow on, over, across, or within the right-of-way of an improved public highway at a decoy of a big game animal that has been set out by a Band, State or Commission law enforcement officer.

(b) **Restrictions related to motor vehicles.** A member may not take a wild animal with a firearm or bow or crossbow from a motor vehicle except that a member may do so from a stationary

vehicle which is parked off of and more than 66 feet from the center of an improved two lane highway, and 122 feet from the center of a four lane highway, or as permitted in subsection 3.22(12)(c) or (d) or 10.05(2)(e).

(c) **Hunting from vehicle by disabled hunters.** The Department of Natural Resources may issue a special permit to discharge a firearm or bow or crossbow from a stationary motor vehicle within a roadway other than a state or federal

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highway to a member who is temporarily or permanently physically unable to walk without crutches, braces, or other mechanical support, or who has a physical disability which substantially limits the person's ability to walk. The holder of such a permit must shoot away from and not across the roadway.

(d) **Taking bounty animals from airplanes and snowmobiles.** The Department of Natural Resources may issue a special permit, without fee, to take animals that the State pays a bounty for, from an airplane or a snowmobile.

(13) Restrictions on Use of Bait.

- (a) **[Open.]**
- (b) No member shall place, use or hunt over bait containing or contained within metal, plastic, glass, wood or nondegradeable materials.
- (c) No member shall place or hunt over bait or liquid scent within one hundred fifty (150) yards of any campsite used by the public.
- (d) No member shall use uncured swine products or honey for bait.
- (e) No member shall use any bait to hunt deer or bear unless the member places a nondegradable identification tag indicating the member's tribal affiliation and tribal identification number on the tree nearest the bait, at eye level, and directly facing the bait.
- (f) This section shall not prohibit hunting over bait materials deposited by natural vegetation or found solely as a result of normal agricultural practices.

3.23 Use of Motor Vehicles to Chase Wild Animals Prohibited. Except as permitted in section 3.22(12), no member shall use a motor vehicle to intentionally drive, chase, run over, kill or take a wild animal.

3.24 Hunting with Aircraft Prohibited. Except as permitted in subsection 3.22(12)(d), no member shall hunt with the aid of an airplane, including the use of an airplane to spot, rally or drive wild animals for hunters on the ground.

3.25 Pivot Guns and Similar Devices Prohibited. No member shall place, operate or attend, spread, or set any net (except as authorized for fishing pursuant to Chapter 9), pitfall,

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spring gun, pivot gun, swivel gun, springpole, deadfall or other similar contrivance for the purpose of catching or which might catch, take or ensnare wild animals.

3.26 Tampering with Equipment of Another Prohibited. No member shall molest, disturb, tamper with or in any way otherwise interfere with any hunting, fishing, trapping or gathering equipment used, set or placed by another except with permission of the owner of the equipment or the owner or lessee of the land where the equipment is located.

3.27 Endangered and Threatened Species Protected. No member shall take, transport, possess, process or sell any endangered and threatened species as defined in Section 2.01(7), except when:

- (1) the member has received a permit from the Federal or State government or the Commissioner to do so;
- (2) it is necessary to prevent injury to human life; or
- (3) the circumstances set forth in MR 6212.2200 are present.

The Commissioner may issue such permits only upon a determination that the permitted act will not be detrimental to the species, or when the circumstances set forth in MR 6212.2000 or 2100 are present. A member engaging in a permitted act under this section must display the permit upon request to any person authorized to enforce the provisions of this ordinance.

3.28 Records of Commercial Transactions Required.

- (1) Except for subsistence uses or as otherwise provided in this ordinance, no member shall sell any wild animal or wild plant, the harvest of which is regulated by this ordinance, to any person unless the member maintains a written record made within 24 hours of the transaction on forms prescribed by the Department of Natural Resources indicating the amount and type of resource involved in the transaction, the parties to the transaction, and the date of the transaction.
- (2) Records maintained pursuant to the requirement of subs. (1) shall be forwarded monthly to the Department of Natural Resources, or its designee.
- (3) No member shall fail to comply with the reporting requirements of subs. (2).

3.29 Special Use Areas.

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- (1) The Commissioner is authorized to identify special use areas in the Minnesota Ceded Territory, including, but not limited to designated musky waters, designated experimental waters,

fish rearing ponds, forests, forest campgrounds and day use areas, game refuges, northern pike spawning areas, parks, public water access sites, scientific and natural areas, trails, trout streams, and wildlife management areas.

- (2) The Commissioner, with the approval of a majority of the Bands, may close or prescribe other restrictions on hunting, fishing, gathering and other activities by Band members in special use areas identified pursuant to subs. (1).
- (3) No member shall fail to comply with the closures and other restrictions established by the documents adopted pursuant to subs. (2).

3.30 Unprotected Species. Except as otherwise expressly provided, nothing in this ordinance shall be construed to prohibit or regulate a member's harvest of any unprotected species, as defined in Section 2.01(20), in the Minnesota Ceded Territory.

3.31 Protected Species. No member shall hunt, fish, trap or gather any of the following species: paddlefish, spoonbill catfish, wolverine, flying squirrel, timber wolf, cougar, elk, homing pigeon or any wild bird, except those species whose harvest is specifically regulated pursuant to the provisions of this ordinance.

3.32 Permissible Conduct/Assistance by Non-Members.

- (1) Conduct which is not expressly prohibited, restricted or otherwise regulated by this ordinance shall be deemed permissible.
- (2) Except as provided in subs. (3) or as otherwise provided herein, nothing in this ordinance shall be construed to prohibit a member from hunting, fishing, trapping or gathering with any other person who is not a member of the Band, provided that such other person possesses a license or is otherwise not prohibited from engaging in the activity involved and complies with applicable laws.
- (3) (a) No member shall allow any person who is not a member of the Band to assist, and no such person shall assist, in the activities authorized by this ordinance except in accordance with the provisions of this subsection or as provided in subs. (2), above.

(b) Except as provided in subs. (2), those persons who may assist a member shall be limited to the member's immediate family, including grandparents, parents, children, spouses and siblings.

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- (c) A member may be assisted by a non-member in accordance with this subsection only if the member is physically present during the activity which constitutes assistance.
- (d) Family member "assistance" pursuant to this subsection shall be limited to the following activities, and shall not be allowed for any commercial activity:
 - (i) Operation of a boat during spearing;
 - (ii) Placing or lifting a net;

(iii) Setting or lifting of attended lines during ice fishing;

- (iv) In hunting, all activities except the actual use of a firearm, bow and arrow or crossbow to kill an animal;
- (v) In trapping and snaring all activities except the setting or placement of traps and snares;
- (vi) In harvesting wild rice, all activities, and in harvesting other plants, all activities except the uprooting, cutting or removal of plant matter from its natural location; or

(vii) In harvesting frogs, turtles, mussels, crayfish and species the harvest of which are not prohibited or otherwise regulated by this ordinance, all activities except the actual use of a device to kill an animal or the specific act which reduces an animal to possession.

3.33 Emergency Closures.

(1) Notwithstanding any other provisions of this ordinance, the Commissioner is hereby authorized and empowered to order the closure of the harvest activity of any species, generally or with respect to a particular location or body of water, whenever in his or her professional opinion and judgment the continuation of the harvest is likely to result in a harvest exceeding the applicable harvest goals and quotas or may otherwise cause biological harm to the species involved.

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- (2) Every reasonable effort shall be made to consult with and obtain the approval of the Bands before ordering an emergency closure, but such closure may be ordered without consultation or approval if circumstances require.
- (3) An emergency closure shall become effective immediately upon issuance or at such time or date as the closure order may direct. Such closure shall be communicated to Band members by the best and swiftest practicable method.
- (4) No member shall violate the terms, conditions, or restrictions of an emergency closure order issued pursuant to this section.

3.34 Management Units. The Commissioner is authorized to establish and modify management units for any species in order to fulfill the purposes of this ordinance, consistent with the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.).

3.35 Registration Stations. For the purposes of this ordinance, a Band registration station may include Minnesota Department of Natural Resources field stations or offices as may be designated from time to time by the Department of Natural Resources.

3.36 Transfers .

(1) Except as otherwise provided in this ordinance, a member may transfer any wild animal lawfully harvested under this ordinance to another person, provided that the transferor of any wild animal the harvest of which is regulated under this ordinance must prepare a receipt containing the following information and give it to the recipient at the time of the transfer:

- (a) name and address of transferor;
- (b) name and address of recipient;
- (c) date of transfer;
- (d) description of item(s) transferred, including species and number; and
- (e) permit number under which the animal was taken or, if acquired by the transferor other than by taking, a description of how the animal was acquired.

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- (2) A member who is a recipient of a transfer of any wild animal, the harvest of which is regulated under this ordinance, may possess such animal only if he or she receives a receipt from the transferor in accordance with subs. (1) and retains possession of the receipt.
- (3) A receipt need not be prepared or retained if the transferor and the recipient are members of the same household and the transferred animal is stored in that household.

3.37 **Removal of Signs.** No member shall remove or deface a Minnesota Department of Natural Resources sign without approval of the Minnesota Commissioner of Natural Resources. No member shall remove or deface a sign belonging to any of the Bands or the Commission without approval of the appropriate Band or the Commission.

3.38 **Hunter, Trapper, and Angler Harassment Prohibited.**

- (1) A member who has the intent to prevent, disrupt, or dissuade the taking of a wild animal or enjoyment of the out-of-doors may not disturb or interfere with another person who is lawfully taking a wild animal or preparing to take a wild animal. "Preparing to take a wild animal" includes travel, camping, and other acts that occur on land or water where the affected person has the right or privilege to take lawfully a wild animal.
- (2) A member who has the intent to prevent or disrupt a person from lawfully taking the animals may not disturb or engage in an activity that will tend to disturb wild animals.
- (3) A member who has intent to violate subsection (1) or (2) may not enter or remain on public lands, or on private lands without permission of the owner.
- (4) A member must obey an order to stop the harassing conduct that violates this section from a person authorized to enforce this ordinance if such person observes the conduct. For purposes of this subsection, "harassing conduct" does not include a landowner's or lessee's action to enforce the trespass law.

3.39 **Fishing and Motorboats Prohibited in Certain Areas.**

(1) Except when fishing with a permit issued under Chapter 9, no member shall fish or drive a

motorboat over waters posted by the Minnesota Department of Natural Resources, the Commissioner, or the Commission that are designated as spawning beds or fish preserves.

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(2) An owner of riparian land adjacent to a posted area referred to in subsection (1) may operate a motorboat through the area by the shortest direct route at a speed of not more than five miles per hour.

3.40 Structures in Public Waters Prohibited. No member shall construct or maintain a dam or other obstruction, except a boat pier over public waters, or obstruct a creek, stream, or river to prevent the passage of fish with a rack or screen, provided that nothing in this section shall prohibit the use of fish harvesting methods expressly authorized in Chapter 9 of this ordinance.

3.41 Training Dogs.

- (1) A member may not train hunting dogs afield from April 16 to July 14 except by special permit. The Department of Natural Resources may issue a special permit to train hunting dogs afield on land owned by the trainer or on land that the owner provides written permission. The written permission must be carried in personal possession of the trainer while training the dogs.
- (2) A member training a dog afield and carrying a firearm may only have blank cartridges and shells in personal possession when the season is not open for any game bird, except as provided in subs. (3).
- (3) The Department of Natural Resources may issue special permits to members to use firearms and live ammunition on domesticated birds or banded game birds from game farms for holding field trials and training hunting dogs.
- (4) The Department of Natural Resources may issue special permits to possess one raccoon to train dogs for raccoon hunting.

3.42 Permits to Take Animals Causing Damage. The Commissioner may issue special permits on such terms and conditions as he deems necessary or appropriate to take wild animals that are damaging or about to damage property owned by the Band or by a Band member. The permit shall require the member to report whether the animal was killed.

CHAPTER 4 - ENFORCEMENT

4.01 Hearings in Band Court. Jurisdiction over all matters arising under this ordinance shall be with the Band court, which shall adjudicate in accordance with the Band and applicable Federal Law, all questions, complaints and alleged violations involving the provisions of this ordinance.

4.02 Enforcement by Deputized Conservation Wardens. Any provision of this ordinance may be enforced by wardens of the Bands or the Commission. Said wardens are hereby deputized by the Band as Natural Resources Enforcement Officers for the purpose of enforcing this ordinance.

4.03 Enforcement by Minnesota Department of Natural Resources Conservation Officers . Minnesota Department of Natural Resources Conservation Officers are hereby empowered to enforce the provisions of this ordinance except on trust lands and to institute proceedings in the Band court by use of citation forms of that Department or to refer the matter to appropriate Band or Commission wardens or the Band prosecutor for further investigation or action.

4.04 Search and Seizure; When Authorized. Any person authorized to enforce the provisions of this ordinance may conduct a search of an object, place, or person whose conduct is regulated by the provisions of this ordinance, and seize things when the search is made:

- (1) With consent;
- (2) Pursuant to valid search warrant issued by the Band court;
- (3) With the authority and within the scope of a right of lawful inspection as provided in Section 4.05(1)(a);
- (4) Incident to the issuance of a lawfully issued citation under this ordinance; or
- (5) As otherwise authorized by law or by the provisions of this ordinance.

4.05 Investigations and Citations.

(1) Any person authorized to enforce the provisions of this ordinance may:

- (a) Subject to subsection (2), conduct routine inspections of vessels, boats, wagons, trailers, automobiles, vehicles, snowmobiles, containers, packages, and other receptacles contained therein, utilized by a person in a harvest activity authorized by this ordinance, and of records of commercial transactions required under Section 3.28 which have not yet been forwarded to the Department of Natural Resources, or its designee;
- (b) Execute and serve warrants and other process issued by the Band court in accordance with applicable law;

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- (c) Stop and board any boat and stop any automobile or other vehicle pursuant to subs. (1)(a) or if the person reasonably suspects there is a violation or breach of this ordinance;
- (d) With or without a warrant, open, enter and examine vessels, boats, wagons, trailers, automobiles, vehicles, snowmobiles, and packages and other receptacles contained therein, in which the person has probable cause to believe that contraband wild plants or wild animals, or carcasses or part thereof, may be contained or pursuant to subs. (1)(a);
- (e) Issue a citation on a form approved by the Band or Band court to any person whose conduct is regulated by the provisions of this ordinance upon reasonable belief that such person has violated or breached a provision of this ordinance; and
- (f) May seize and hold subject to the order of the Band court any alleged contraband or property which such person reasonably believes may be needed as evidence in connection with the institution of proceedings in Band court or any property otherwise authorized to be seized by the provisions of this ordinance.

(2) The inspections authorized by subsection (1)(a) shall be conducted in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities.

4.06 [Open.]

4.07 Registration Information. A person authorized to enforce this ordinance is empowered to request and receive from Band tag and permit issuance stations and harvest registration stations information regarding tag and permit issuance and harvest registration.

4.08 Penalties. Any member who, for himself or herself, or by his or her agent, servant or employee, or who as an agent, servant or employee of another, violates this ordinance, shall be liable as follows:

- (1) For all violations for which no other amount is specified, a civil remedial forfeiture of not more than \$5,000.00;
- (2) For any violation, a revocation or suspension of hunting, fishing or gathering privileges for a period of time within the discretion of the court;
- (3) For any violation, a civil remedial forfeiture of any property, including boats, motors, vehicles, hunting or fishing equipment, or other property, used in the commission of the violation of this ordinance;

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- (4) For all violations, the court may order a natural resources assessment not to exceed 75% of the amount of the civil remedial forfeiture; and
- (5) For all violations, appropriate court costs within the discretion of the court.

4.09 Enhancement of Forfeiture and Penalties. Upon conviction of any member for a violation of this ordinance when such person has been convicted of a previous violation of this ordinance within a period of one year, the court may enhance any civil remedial forfeiture or other penalty as the court deems appropriate.

4.10 Civil Damages. In addition to any other penalty allowed by this ordinance, the Band court may award to the Band or, in addition to an action to impose penalties, the Band may bring a civil action for recovery of damages against any member unlawfully killing, wounding, catching, taking, trapping, or having unlawfully in possession any of the following named protected wild plants, wild animals, or any part thereof, and the sum assessed for damages for each wild plant or wild animal, shall not be less than the amount stated in this section:

- (1) Any endangered and threatened species protected under this ordinance, \$875.00.
- (2) Any fisher, marten, prairie chicken, sand hill crane, or raptor, \$262.50.
- (3) Any deer, moose, elk or bear, \$175.00.
- (4) Any bobcat, cougar, fox, beaver, badger or otter, \$87.50.
- (5) Any coyote, raccoon or mink, \$43.75.
- (6) Any sharptail grouse, ruffed grouse, spruce grouse, wild duck, coot, wild goose or brant, \$26.25.
- (7) Any pheasant, Hungarian partridge, bobwhite, quail, rail, Wilson's snipe, woodcock or shorebird, or protected song bird or harmless bird, \$17.50.
- (8) Any muskrat, rabbit or squirrel, \$8.75.
- (9) Any muskellunge or rock or lake sturgeon, \$43.75.
- (10) Any largemouth or smallmouth bass, \$26.25.
- (11) Any brook, rainbow, brown, or steelhead trout, \$26.25.
- (12) Any walleye, northern pike, or any other game fish not mentioned in pars. (9) to (11),

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\$28.75.

(13) Any wild animal or wild plant not mentioned in pars. (2) to (8), \$17.50.

4.11 Seized Wild Animals and Wild Plants. No wild animal or wild plant seized pursuant to this ordinance shall be returned to a convicted violator, his or her immediate family, or other member of the hunting, fishing or gathering party.

4.12 Schedule of Money Penalties; No Contest. The Band Court, in consultation with the Department of Natural Resources, may adopt a schedule of forfeitures to be imposed by the Court upon the receipt of an admission that a violation of this ordinance has occurred, or a plea of no contest, which may be done either in person or in writing. This schedule shall not bind the Court as to forfeitures assessed by the Court after adjudicating a violation where the defendant has entered a plea of not guilty.

4.13 Collection of Money Penalties. Enforcement of the money penalties imposed pursuant to this ordinance may be had through the collection of penalties from funds of the violator held by the Band, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

4.14 Parties to a Violation.

- (1) Whoever is concerned in the commission of a violation of this ordinance shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the member who directly committed it has not been convicted of the violation.
- (2) A member is concerned in the commission of the violation if the member:
 - (a) directly commits the violation;
 - (b) aids or abets the commission of the violation; or
 - (c) is a party to a conspiracy with another to commit, or advises, hires, counsels or otherwise procures another to commit, the violation.

4.15 Harvesting After Revocation or Suspension. No person whose hunting, fishing or gathering privileges have been revoked or suspended pursuant to Section 4.08(2), shall hunt, fish, trap or gather any wild plant or wild animal, the harvest of which is regulated by this ordinance, during such revocation or suspension.

CHAPTER 5 - WILD RICE HARVESTING REGULATIONS

5.01 Band Wild Rice Authority.

- (1) Recognition. There hereby is recognized the Mille Lacs Wild Rice Authority which shall have the powers and duties enumerated in this chapter.
- (2) Definition. As used in this chapter, the "Mille Lacs Wild Rice Authority" shall mean the individuals named by the Department of Natural Resources of the Mille Lacs Band to act in the manner of the traditional Band members for the purposes of implementing the provisions of this Chapter and of regulating the harvest and conservation of wild rice.
- (3) Powers. The Mille Lacs Wild Rice Authority may designate the open and closed dates for harvesting wild rice growing within the Minnesota Ceded Territory by posting notice of the open dates on the shores of and at places of access to such waters. The Authority will work with the Department of Natural Resources so that at least 24 hours notice is given before such open dates.
- (4) Sufficient Notice of Opening Dates. The posting of an open date for harvesting wild rice pursuant to subs. (3) shall be deemed sufficient notice of such opening date and no other publication thereof is required.
- (5) Consultation Required. In exercising its powers and duties under subs. (3), the Mille Lacs Wild Rice Authority shall consult with and obtain the advice and recommendations of the

Commissioner, and comply with the provisions in the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding wild rice management. The Commissioner shall consult with the Minnesota Department of Natural Resources prior to the opening date.

5.02 Permit Required. No member shall harvest or gather wild rice pursuant to this ordinance without possessing a valid wild rice harvesting permit issued by the Department of Natural Resources. No wild rice harvest permit is required of helpers of a permittee who participate only in shore operations.

5.03 Sale of Wild Rice Authorized.

- (1) Nothing in this ordinance shall be construed to prohibit members from selling wild rice legally harvested pursuant to this ordinance.
- (2) A member who sells wild rice harvested under this ordinance to non-members shall comply with the following labeling requirements:

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- (a) Wild rice containing a portion of wild rice that is cultivated and offered for wholesale or retail sale must be plainly and conspicuously labeled as either "paddy" or as "cultivated" in letters of a size and form prescribed by the Commissioner.
- (b) A package containing only 100 percent natural lake or river wild rice that is offered for sale at wholesale or retail sale must be plainly and conspicuously labelled as "100 percent naturally grown, lake and river wild rice" in letters of a size and form prescribed by the Commissioner. A package of wild rice labeled "100 percent naturally grown, lake and river wild rice" must also contain the license number issued under M.S. 84.152 of the last licensed dealer, if any, who handled the wild rice.
- (c) A package that does not contain 100 percent natural lake or river wild rice may not contain a label authorized under paragraph (b).
- (d) A package containing a portion of 100 percent naturally grown lake and river wild rice that is harvested by use of mechanical harvesting devices and that is offered for sale at wholesale or retail must be plainly and conspicuously labelled as "machine harvested" in letters of a size and form prescribed by the Commissioner. In addition, the letters "machine harvested" must be placed near the product's identity on the label. Packages containing 100 percent hand-harvested wild rice may be labeled as "hand harvested."
- (e) A package of cultivated or natural lake or river wild rice offered for sale at wholesale or retail in this state must specify the place of origin of the wild rice by a plain and conspicuous label placed near the product's identity on the label in letters of a size and form prescribed by the Commissioner. Only packages containing cultivated or natural lake or river wild rice that is 100 percent grown in Minnesota may be labeled as "grown in Minnesota."
- (f) A wild rice label that implies the wild rice is harvested or processed by Chippewas is misbranded unless the package contains only 100 percent natural lake or river wild rice harvested by Chippewas.
- (g) This section does not apply to cultivated or natural lake or river wild rice sold at wholesale or retail outside Minnesota.

(3) The provisions of Section 3.28 [Records of Commercial Transactions Required] shall not apply to a member who sells less than 500 pounds of wild rice in Minnesota in a calendar year. For members who sell more than 500 pounds of wild rice in Minnesota in a calendar year, the records under Section 3.28 shall include, in addition to those specified in that section:

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- (a) for members selling or offering for sale wild rice at retail, an invoice indicating the name of the product, amount and date of purchase, and name, address, zip code and telephone number of the supplier; and
- (b) for members not selling or offering for sale wild rice at retail, an identification of the place of origin of the wild rice, the lot numbers of the wild rice bought and sold in each transaction, and documents that track the rice by lot number through processing and assignment of a final lot number on the finished product.

5.04 Allowable Methods.

- (1) No member shall harvest or gather wild rice by the use of any method other than smooth, rounded cedar rods or sticks not more than 32 inches in length and which are held and operated by hand.
- (2) No member shall bind or otherwise bundle together any wild rice stalks, or harvest or gather any wild rice, the stalks of which have been bound or otherwise bundled together, except by special permit issued by the Commissioner.

5.05 Boats. No member may harvest or gather any wild rice by the use of any boat longer than 17 feet or wider than 38 inches, or with any modification of the gunwale designed to capture rice outside of the boat, or by the use of any boat propelled by other than muscular power using only a push pole or canoe paddle.

5.06 Open Season. No member shall harvest or gather wild rice in any body of water except during the time(s) as such body of water is posted open by the Mille Lacs Wild Rice Authority pursuant to Section 5.01(3).

5.07 [Open.]

5.08 Hours. No member shall harvest or gather wild rice between sunset and the following 9:00 a.m., Central Time.

5.09 Harvest Monitoring. No member shall refuse to cooperate with wild rice harvest monitoring activities conducted by one of the Bands or the Commission's Biological Services Division.

5.10 Harvest by Authorized Officials. Nothing in this Chapter shall prohibit or preclude the Department of Natural Resources, the Commission's Biological Services Division or their

designees from harvesting or gathering wild rice for scientific purposes or otherwise within the performance of their duties.

5.11 [Open.]

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5.12 Assistance by Non-Members. No person who is not a member of one of the Bands shall assist a member in the gathering of wild rice pursuant to this ordinance except as provided in Section

3.32 [Permissible Conduct/Assistance by Non-Members].

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CHAPTER 6 - DEER HARVESTING REGULATIONS

6.01 **Definitions.** For the purposes of this ordinance, the following terms shall be construed as follows:

- (1) "**Antlerless deer**" means a deer not having at least one antler of at least 3 inches in

length.

- (2) "**Bow**" means any hunting instrument designed for the purpose of propelling arrows which is drawn and held by and through the efforts of the person firing it, but does not include a crossbow.
- (3) "**Crossbow**" means any device using a bow which, once drawn, is held solely by means other than the effort of the person firing it.
- (4) "**Firearm**" means a rifle, muzzleloader, shotgun, handgun or other type of gun.

6.02 Open and Closed Season.

- (1) A closed season is hereby established for the hunting of deer except for the open seasons specified in Section 6.07.
- (2) Except as otherwise expressly provided by this ordinance, no member shall hunt deer in the Minnesota Ceded Territory during the closed season.

6.03 Number of Antlerless Deer Available for Harvest.

- (1) The number of antlerless deer which shall be available for harvest in each deer management unit pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established by the Bands, after consultation with Minnesota State Department of Natural Resources regarding the total harvestable surplus within the management unit, and in accordance with the provisions in the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding deer management. For the purposes of this ordinance, this number shall be termed the treaty quota.
- (2) No member shall hunt antlerless deer in any deer management unit in which a treaty quota has not been established pursuant to subs. (1) or which has been closed to further antlerless deer hunting pursuant to Section 6.21.

6.04 [Open.]

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6.05 Deer Hunting Permits/Tags.

- (1) No member shall hunt deer pursuant to this chapter without possessing a valid deer hunting permit issued by the Department of Natural Resources.
- (2) (a) No member shall hunt deer without possessing a valid carcass tag issued by the Department of Natural Resources, except as provided in Section 6.11 [Group Deer Hunting].
- (b) The Department of Natural Resources shall issue no more than two (2) carcass tags at a time to a member.
- (3) (a) No member shall hunt antlerless deer without a valid antlerless deer permit bearing the number of the member's carcass tag(s) and valid for the date on which the member is hunting, except as provided in Section 6.11 [Group Deer Hunting].
- (4) No antlerless deer permit shall be valid for any deer management unit:
- (a) which is shown to be closed on the permit;

- (b) for which the permit is marked as invalid; or
- (c) with respect to a level 1 commercial harvest antlerless deer permit, which lies outside the level 1 commercial harvest zone in which the member is authorized to hunt.
- (5) No member shall move or field dress a deer before affixing to it a valid carcass tag. If the member intends to register the head only pursuant to subs. 6.06(5), the carcass tag must be affixed to the head.
- (6) No member shall move or field dress an antlerless deer without making a slit or punch on the antlerless deer permit through the number of the deer management unit in which the deer has been killed.
- (7) (a) Except as otherwise provided in this ordinance, antlerless deer permits shall be valid for no longer than 14 successive days of an open season during such time periods as the Commissioner shall establish.

(b) The Department of Natural Resources shall not issue an antlerless deer permit prior to the first day of the permit period for which the permit will be valid, except:

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- (i) a permit may be issued no more than 7 days prior to the regular deer season established pursuant to Section 6.07; and
- (ii) a permit may be issued no more than 24 hours prior to the start of the State deer season.

6.06 General Deer Registration Provisions .

- (1) A member who has killed a deer pursuant to this ordinance, or, in the instance of group hunting [Section 6.11], whose carcass tag has been affixed to the deer, shall register the deer by presenting it to a registration station operated by one of the Bands no later than 5:00 p.m. of the third working day after the killing.
- (2) Upon registering a deer pursuant to this section, the registering official shall affix a registration tag and duly record in an appropriate manner all information required to be provided by the member at the time of registration.
- (3) A member registering an antlerless deer shall surrender his or her antlerless deer permit upon registration of the deer.
- (4) A member registering a deer shall provide the registering official with the following information: the sex (male or female) and the age (adult or fawn) of the deer, the management unit where the deer was taken, the date when the deer was taken, the Band identification number of the member taking the deer and any other relevant information requested by the registering official.
- (5) No member shall register a deer except by presenting the head or the whole carcass to the registering official.
- (6) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.
- (7) An officer of one of the Bands or Commission warden authorized pursuant to Section

4.02 to enforce the provisions of this ordinance is authorized to register deer in the field

provided such warden transmits all registering information to a registration station operated by one of the Bands no later than the registration deadline established by subs. (1), above.

History: Section 6.06 was amended in December 2001.

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6.07 Deer Seasons; Specific Regulations. All dates given in this section are inclusive.

- (1) Closed Season. Except as provided in §1.09 [Religious or Ceremonial Use of Natural Resources], no member shall hunt deer from January 1 to Labor Day.
- (2) Regular Season.
- (a) An annual regular firearm, bow and crossbow season is hereby established for antlered deer beginning on the day after Labor Day and ending on December 31.
- (b) An annual regular firearm, bow and crossbow season is hereby established for antlerless deer beginning on the day after Labor Day, and ending on December 31.
- (3) State Season. No member shall hunt in a State hunting zone without complying with the provisions of Section 3.22(9) concerning the wearing of blaze orange color during the annual state firearm (not muzzle-loader) deer season, including any extension thereof, for that zone.
- (4) No member shall take deer with the aid of dogs.
- (5) Emergency Closure. Nothing in this section shall be construed to authorize deer hunting or the opening of a deer hunting season contrary to an Emergency Closure Order issued pursuant to Section 3.33 [Emergency Closures].

6.08 Permissible Methods. No member shall hunt deer except by the use of a firearm, bow or crossbow the use of which is not prohibited by this ordinance.

6.09 Firearms Restrictions. No member shall hunt deer:

- (1) With a .22 rimfire rifle, 5 mm rimfire rifle, or .17 caliber centerfire rifle;
- (2) With any handgun except a handgun which is loaded with .357, .41 or .44 magnum caliber ammunition;
- (3) With a smooth-bore muzzle-loader less than .45 caliber or a rifled muzzle-loader less than .40 caliber;
- (4) With a projectile other than one with a soft point or which is an expanding bullet type;
- (5) With any shell, cartridge or ammunition known as tracer shells, or with incendiary shells or cartridges (NOTE: Distress flares are exempt from this Section);

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- (6) With shot shells containing shot size less than 12 gauge "OO" buckshot;

- (7) With "00" buckshot when hunting in a State hunting zone during the annual State firearm (not muzzle-loader) deer season, including any extension thereof, for that zone, and no member shall possess such ammunition while hunting in such zone during such season; or
- (8) With a silencer for a firearm or firearm equipped to have a silencer attached.

6.10 Bow/Crossbow Restrictions . No member shall hunt deer:

- (1) With a bow having a pull of less than 30 pounds or using an arrowhead other than one that has a minimum of two metal cutting edges, is of a barbless broadhead design and has a diameter of at least seven-eighths inch. Nonretractable arrowheads are barbless if the trailing edge of the blade creates a 90 degree or greater angle with the shaft of the arrow. Retractable broadheads may be used if they meet the following criteria:
 - (a) they are at least seven-eighths of an inch in width and no more than two inches in width at or after impact with a big game animal; and
 - (b) they are a barbless design and function in a barbless manner. Retractable arrowheads are a barbless design if the trailing edge of each blade creates a 90 degree or greater angle with the shaft when the blades are fully retracted. Retractable arrowheads function in a barbless manner if, when withdrawn from a big game animal, the blades retract so that the trailing edge of each blade is at a 90 degree or greater angle to the arrow shaft.
- (2) With a crossbow unless the crossbow:
 - (a) is fired from the shoulder;
 - (b) has a minimum draw weight of 100 pounds;
 - (c) of not less than 30 continuing inches in length;
 - (d) has a working safety; and
 - (e) is used with arrows or bolts of not less than 14 inches with a broadhead.

6.11 Group Deer Hunting.

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- (1) As used in this section:
 - (a) "**Contact**" means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.
 - (b) "**Group deer hunting party**" means 2 or more persons lawfully hunting deer in a group.
- (2) Any member of a group deer hunting party may kill a deer for another member of the group deer hunting party if both of the following conditions exist:
 - (a) At the time and place of the kill, the member who kills the deer is in contact with the person for whom the deer is killed.
 - (b) The member for whom the deer is killed possesses a current unused deer carcass tag, and, if the deer is an antlerless deer, an antlerless deer permit valid for the unit in which the deer is killed.
- (3) A member who kills a deer under subs. (2) shall ensure that a member of his or her group deer hunting party without delay attaches a deer carcass tag to the deer prior to moving or field dressing it. No member who kills a deer while group hunting shall leave the deer unattended until

after it is properly tagged.

6.12 Hunting Hours. Except as provided in Section 6.20 [Shining Deer] no member shall hunt deer except during the following hours: One-half hour before sunrise to one-half hour after sunset.

6.13 Transportation. All deer must be transported in such a manner that inspection by registration agents or conservation officers is readily accomplished.

6.14 Hunting on Certain Public Lands Prohibited. No member shall hunt deer on any of the following public lands except as noted:

(1) Designated public campgrounds, public beaches, public picnic areas, and public water access sites.

(2) Public land within incorporated areas except:

(a) bow and gun hunting is permitted on lands which are designated for bow and gun hunting; and

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(b) bow hunting is permitted on lands which are designated for bow hunting.

(3) All parks identified by Commissioner's Order under Section 3.29 except:

(a) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or

(b) parks or portions thereof in which hunting is allowed under State law, pursuant to a permit issued by the Department of Natural Resources in accordance with the agreement between the Bands and the State regarding special hunts in parks.

(4) All wildlife refuges, scientific and natural areas, and other closed or restricted areas as established pursuant to Section 3.29, except as hunting is permitted by the Commissioner in those areas.

6.15 Hunting on Certain Private Lands Prohibited. As provided in Sec. 3.22(1), no member shall hunt deer on any privately owned land unless the lands are open to the general public for hunting by operation of state law.

6.16 Sale of Deer and Deer Parts.

(1) Head, Skin and Hooves. Nothing in this ordinance shall be construed to prohibit any member from selling to any person the head, skin and hooves, when severed from the rest of the carcass, of any deer lawfully killed pursuant to this ordinance.

(2) Meat. No member shall sell the meat of any deer killed pursuant to this ordinance, except

in accordance with the provisions of Sections 6.17, 6.18 and 6.19, and if sold for human consumption the provisions of federal law applicable to the sale of meat for human consumption.

6.17 Sale of Deer Meat to Members.

(1) Purpose. The purpose of this section is to regulate the sale of deer meat to members where subsequent sale or resale of the meat to non-members is prohibited. Nothing in this ordinance shall be construed to limit the number of deer, or parts thereof, which may be sold to such members pursuant to this section.

(2) Sale to Members. Any member who has lawfully harvested and registered a deer pursuant to this ordinance may sell the carcass, or any part thereof, of the deer to any

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other member provided no member who receives a carcass or any part thereof pursuant to this subsection shall sell the carcass or part thereof to any person who is not a member.

(3) Sale to Members of Other Bands. Any member who has lawfully harvested and registered a deer pursuant to this ordinance may sell the carcass, or any part thereof, of the deer to a member of one of the other Bands, provided that such other Band prohibits its member who receives a carcass or any part thereof pursuant to this subsection from selling the carcass or part thereof to any person who is not a member of one of the Bands.

(4) General Permit/Registration Provisions Unaffected. The provisions of Section 6.05 [Deer Hunting Permits/Tags], and of Section 6.06 [General Deer Registration Provisions] are not affected by the provisions of this Section.

6.18 Level 1 Commercial Harvest Established and Regulated.

(1) Purpose. The purpose of this section is to establish the regulations governing the harvest and registration of no more than 10 deer the meat of which may be sold pursuant to this ordinance when subsequent sale or resale of the meat to non-members is contemplated.

(2) Effective Date.

(a) The provisions of this section shall not take effect until such time as the governing body of the Band specifically declares them effective by an enabling resolution.

(b) No member shall sell any deer meat pursuant to this section prior to the effective date as declared by the governing body of the Band in accordance with subs. (a).

(3) Level 1 Commercial Harvest Generally. A member who, between July 1 and June 30, has lawfully harvested deer pursuant to this ordinance may register no more than 10 of those deer for level 1 commercial purposes and may sell to any person only the whole carcasses (except for the heads, skins and hooves) of any of those deer, provided the member:

(a) complies with the level 1 commercial harvest provisions of this Section;

(b) complies with the terms and conditions of the Band's enabling resolution enacted pursuant to subs. (2)(a); and

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(c) otherwise complies with the provisions of this ordinance applicable to deer hunting.

(4) Antlered Deer Level 1 Commercial Harvest.

(a) A member may register pursuant to this subsection an antlered deer lawfully harvested in any deer management unit.

(b) When registering an antlered deer under this subsection, a member shall present the entire deer carcass for registration and no registering official shall register a deer under this subsection unless the entire carcass is presented for registration.

(c) A member may register an antlered deer under this subsection at any registration station operated by one of the Bands or with any person authorized to register deer in the field at which time the registering official shall affix a level 1 commercial harvest registration tag to the carcass.

(d) This subsection is not intended to limit a member's ability to otherwise register an antlered deer under the provisions of Section 6.06 [General Deer Registration Provisions] for noncommercial purposes but only shall serve to condition the harvest and limit the number of antlered deer which the member may register under this subsection.

(e) Except as modified by the provisions of this subsection, the provisions of Section 6.05 [Deer Hunting Permits/Tags] and Section 6.06 [General Deer Registration Provisions] shall apply to members desiring to register antlered deer under this subsection.

(5) Antlerless Deer Level 1 Commercial Harvest.

(a) A member may register pursuant to this subsection a lawfully harvested antlerless deer provided the provisions of this subsection have been complied with.

(b) When registering an antlerless deer under this subsection, a member shall present the entire deer carcass for registration and no registering official shall register an antlerless deer under this subsection unless the entire carcass is presented for registration.

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(c) A member desiring to register an antlerless deer under this subsection for level 1 commercial purposes must obtain a level 1 commercial antlerless deer permit in accordance with the provisions of Section 6.05 [Deer Hunting Permits/Tags] provided:

(i) The permit may be valid at any given time for only one level 1 antlerless deer commercial harvest zone, which shall be designated by the Commissioner;

(ii) The permit is valid for those deer management units within the level 1 antlerless deer commercial harvest zone which are open to hunting antlerless deer.

(d) A member desiring to register an antlerless deer under this subsection for level 1 commercial purposes must register the antlerless deer within and prior to leaving the antlerless deer commercial harvest zone for which an antlerless permit is valid at a registration station operated by one of the Bands or with a person authorized to register deer in the field.

(e) Upon registration, the registering official shall affix a level 1 commercial harvest registration tag to the carcass.

(f) This subsection is not intended to limit a member's ability to otherwise register an antlerless deer under the provisions of Section 6.06 [General Deer Registration Provisions] for noncommercial purposes but only shall serve to condition the harvest and limit the number of deer which such member may register under this subsection.

(g) Except as modified by the provisions of this subsection, the provisions of Section 6.05 [Deer Hunting Permits/Tags] and Section 6.06 [General Deer Registration Provisions] shall apply to members desiring to register an antlerless deer under this subsection.

(6) Transfer of Entire Carcass Required. No member who has harvested and registered any antlered or antlerless deer pursuant to this section shall sell the deer without transferring the entire carcass of the deer (except for the head, skin and hooves), the registration tag, and such accompanying documents as the Department of Natural Resources may require to the person to whom the deer is sold.

6.19 Level 2 Commercial Harvest Established and Regulated.

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(1) Purpose. The purpose of this section is to establish the regulations governing the harvest and registration of deer the meat of which may be sold pursuant to this ordinance where subsequent sale or resale of the meat of more than 10 deer to non-members is contemplated.

(2) Effective Date.

(a) The provisions of this section shall not take effect until such time as the governing body of the Band specifically declares them effective by an enabling resolution.

(b) No member shall sell any deer meat pursuant to this section prior to the effective date as declared by the governing body of the Band in accordance with subs. (a).

(3) Level 2 Commercial Harvest Generally. A member who obtains a Level 2 Commercial harvest permit pursuant to this section and who lawfully harvests and registers deer pursuant to the permit may sell to any person only the whole carcasses (except for the head, skins and hooves) of any of those deer, provided the member:

(a) complies with level 2 commercial harvest provisions of this section;

(b) complies with the terms and conditions of the Band's enabling resolution enacted pursuant to subs. (2)(a); and

(c) otherwise complies with the provisions of this ordinance applicable to deer hunting.

(4) Level 2 Commercial Harvest Permit Application.

(a) Any member who possesses a valid deer hunting permit may apply on such forms as the Band may prescribe to the Department of Natural Resources for an additional permit authorizing the harvest of deer for level 2 commercial purposes.

(b) The Department of Natural Resources shall grant or deny the application, and shall notify the applicant as soon as practicable of its decision.

(c) A decision to grant the application may impose conditions upon a Level 2 Commercial Harvest Permit which are more restrictive than the conditions imposed by this section.

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- (5) Terms and Conditions of a Level 2 Commercial Harvest Permit. A Level 2 Commercial Harvest Permit:
 - (a) may authorize a member or group of members to harvest no more than the number of antlerless deer which remain available for harvest from the treaty quota in any one deer management unit;
 - (b) shall restrict the member's hunting of deer pursuant to the permit to only one deer management unit at any given time;
 - (c) shall require the permittee to register all deer harvested pursuant to the permit at a registration station operated by one of the Bands located within the management unit for which the permit is valid or within an adjoining unit provided the deer is transported directly to a registration station in that adjoining unit on federal or state highways; and
 - (d) shall require that all members named on the permit possess an official copy of the permit and at least one valid carcass tag while hunting pursuant to the permit.
- (6) Registration of Entire Carcass Required. When registering a deer under a Level 2 Commercial Harvest Permit, a member shall present the entire deer carcass for registration to an authorized registering official and no registering official shall register a deer under this section unless the entire carcass is presented for registration.
- (7) Registration Tag Required. Upon registration, the registering official shall affix a level 2 commercial harvest registration tag to the carcass.
- (8) General Tagging and Registration Requirements Unaffected. Except as modified by the provisions of this section, the provisions of Section 6.05 [Deer Hunting Permits/Tags] and of Section 6.06 [General Deer Registration Provisions] shall apply to members hunting pursuant to a Level 2 Commercial Harvest Permit.
- (9) Transfer of Entire Carcass Required. No member who has harvested and registered any deer pursuant to this section shall sell such deer without transferring the entire carcass of such deer (except for the head, skin and hooves), the registration tag, and such accompanying registration documents as the Department of Natural Resources may require to the person to whom such deer is sold.

6.20 Shining Deer.

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- (1) The Commissioner may issue permits that authorize hunting deer, including shining, between one-half hour after sunset and one-half hour before sunrise, in the following limited and highly controlled situations, provided that no such permit shall be effective in a State deer permit area during the State firearm (not muzzle-loader) deer season in that area.
- (2) No member shall hunt or shine deer under this section unless in possession of a permit issued under subsection (1). Any member hunting or shining deer under this section shall be subject to all terms and conditions in this section and in the permit issued under subsection (1), as well as all other provisions of this ordinance regulating hunting, unless expressly provided otherwise in this section.
- (3) Before issuing a permit under subsection (1), the Commissioner shall at a minimum

provide for:

- (a) the prior inspection and selection of an appropriate site; and
- (b) the advance notification of appropriate federal, state and local officials and nearby landowners.
- (4) For purposes of this section, an "elevated position" shall mean a position that is a minimum of ten (10) feet above the ground in the area comprising a fifty (50) yard radius from the elevated position, and that is within seventeen (17) yards of an area where bait is placed to attract deer. No member hunting or shining deer under this section shall:
 - (a) hunt or shine deer except from an elevated position;
 - (b) discharge a firearm except from an elevated position;
 - (c) possess a loaded firearm except while occupying an elevated position;
 - (d) use any artificial light except a self-contained, battery-operated flashlight containing 5 "D" batteries and a krypton bulb;
 - (e) place more than one bait at the location to be hunted;
 - (f) hunt with the aid of bait larger than sixteen (16) square feet or more than four (4) feet in length on any side;
 - (g) shoot at a deer unless it is at the bait location;

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- (h) hunt deer with a firearm having an affixed scope; or
- (i) discharge a firearm except while illuminating a deer.
- (5) A member hunting deer under this section may pursue and take a deer wounded by the member while shooting from an elevated position, provided that the wounded deer may not be dispatched with a firearm prior to one-half hour before sunrise.
- (6) A permit may be issued under this section only to members who have completed an advanced hunter safety course and received marksmanship training and a marksmanship rating.

6.21 Authorization for Closure. The Commissioner or his or her designee shall close any deer management unit to antlerless deer hunting prior to the season's closing date if there is no treaty quota remaining in that unit or when it appears imminent that more than the treaty quota for that unit will be harvested prior to the expiration of the next permit period.

6.22 Removal and Retention of Tags.

- (1) No member who kills a deer pursuant to this ordinance shall remove a carcass or registration tag from that deer until such time as the carcass is butchered.
- (2) No member who kills a deer pursuant to this ordinance shall dispose of the registration tag until the meat is consumed, except in accordance with the provisions of Sections 6.18(6) and 6.19(9) [Transfer of Tags Upon Sale].
- (3) Any person who receives any meat as a gift or pursuant to Section 6.17 [Sale to Members] from a member who retains a registration tag under this section is not required to possess a registration tag.

6.23 Assistance by Non-Members. No person who is not a member of one of the Bands shall

assist a member in the hunting of deer pursuant to this ordinance except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members].

6.24 Moose. Any member lawfully hunting deer under this ordinance may take a moose for subsistence uses only, upon receipt of a special permit from the Commissioner. The Commissioner shall prescribe terms and conditions for such permits which, at a minimum, shall include all provisions of Chapter 6, including tagging and registration, that are applicable to deer, and shall be consistent with provisions in the final decree in

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Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding moose management.

CHAPTER 7 - BEAR HARVESTING REGULATIONS

7.01 Definitions. For the purpose of this chapter, the following terms shall be construed to apply as follows:

- (1) "**Bow**" shall have the meaning provided in Section 6.01(2).
- (2) "**Crossbow**" shall have the meaning provided in Section 6.01(3).
- (3) "**Firearm**" shall have the meaning provided in Section 6.01(4).

7.02 Open and Closed Season. A closed season is hereby established for the hunting of bear except for the open season specified in Section 7.06.

7.03 Hunting During Closed Season Prohibited. Except as otherwise expressly provided by this ordinance, no member shall hunt bear in the Minnesota Ceded Territory during the closed season.

7.04 [Open.]

7.05 Number of Bear Available for Harvest.

- (1) The Band will limit the number of bear available for harvest by a treaty quota in each bear management zone for each twelve month period commencing July 1 and ending June 30 when required by the Bands' *Treaty Wildlife Management Plan for the Minnesota 1837 Ceded Territory*.
- (2) No member shall hunt bear in any bear management zone which has been closed to further bear hunting pursuant to Section 7.28.

7.06 Bear Season; Specific Regulations. All dates given in this section are inclusive.

- (1) Closed Season. No member shall hunt bear except during the open season establish in subsection (2), below.
- (2) Bow, Crossbow and Firearm Season. An annual firearm, bow and crossbow season is hereby established commencing on the day after Labor Day, or on the day that the State of Minnesota's bear hunting season opens, whichever is earlier, and extending to November 15.
- (3) Nothing in this section shall be construed to authorize bear hunting or the opening of a bear hunting season contrary to an Emergency Closure Order issued pursuant to Section 3.33

- (1) No member shall hunt bear pursuant to this ordinance without possessing a valid bear hunting permit.
- (2) (a) Except as provided in Section 7.13 [Group Bear Hunting], no member shall take a bear without possessing a bear carcass tag valid for the bear management zone in which the bear is shot.
(b) The Department of Natural Resources shall issue no more than 1 carcass tag at a time to a member.
- (3) No member shall move a bear before affixing to it a valid carcass tag.

7.08 Bear Registration.

- (1) A member who has killed a bear pursuant to this ordinance, or, in the instance of group hunting [Section 7.13], whose carcass tag has been affixed to the bear, shall register the bear by presenting it to a registration station operated by one of the Bands no later than 5:00 p.m. of the third working day after the killing.
- (2) Upon registering a bear pursuant to this section, the registering official shall affix a registration tag and duly record in an appropriate manner all information required to be provided by the member at the time of registration.
- (3) A member registering a bear shall provide the registering official with the following information: the deer management unit where the bear was taken, the date when the bear was taken, the Band identification number of the member taking the bear and any other relevant information requested by the registering official.
- (4) A member registering a bear shall upon request submit biological samples to the Commission according to the instructions of the Commission.
- (5) No member shall register a bear except by presenting the entire carcass to the registering official or, in the alternative, by presenting only the hide with claws, head and teeth attached thereto, provided the carcass tag is firmly affixed to the hide or any part thereof.
- (6) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.

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(7) An officer of one of the Bands or Commission warden authorized pursuant to Section 4.02 to enforce the provisions of this ordinance is authorized to register bear in the field provided such warden provides all registering information to a registration station operated by one of the Bands no later than 5:00 p.m. of the third working day after the field registration.

History: Sections 7.05, 7.06 and 7.08 were amended in December 2001.

7.09 Skinning/Preservation Intact. No member shall skin or butcher, other than for field dressing, a bear prior to registration unless the member leaves the claws, head and teeth attached to the hide.

7.10 Permissible Methods. No member shall hunt bear except by the use of any firearm, bow or crossbow, the use of which is not prohibited by this ordinance.

7.11 Firearms Restrictions. No member shall hunt bear with a .22 caliber rifle, any firearm the use of which is prohibited pursuant to Section 6.09 for hunting deer, while possessing more than one handgun, or with the use of buckshot.

7.12 Bow and Crossbow Restrictions. No member shall hunt bear:

(1) With a bow having a pull of less than 40 pounds or using an arrowhead other than one that has a minimum of two metal cutting edges, is of barbless broadhead design, and has a diameter of at least seven-eighths inch. Nonretractable arrowheads are barbless if the trailing edge of the blade creates a 90 degree or greater angle with the shaft of the arrow. Retractable broadheads may be used if they meet the following criteria:

(a) they are at least seven-eighths of an inch in width and no more than two inches in width at or after impact with a big game animal; and

(b) they are a barbless design and function in a barbless manner. Retractable arrowheads are a barbless design if the trailing edge of each blade creates a 90 degree or greater angle with the shaft when the blades are fully retracted. Retractable arrowheads function in a barbless manner if, when withdrawn from a big game animal, the blades retract so that the trailing edge of each blade is at a 90 degree or greater angle to the arrow shaft.

(2) With a crossbow not in compliance with the provisions of Section 6.10(2).

7.13 Group Bear Hunting.

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(1) As used in this section:

(a) "**Contact**" means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.

(b) "**Group bear hunting party**" means 2 or more members lawfully hunting bear in a group all using firearms.

(2) Any member of a group bear hunting party may kill a bear for another member of the group bear hunting party if both of the following conditions exist:

(a) At the time and place of the kill, the member who kills the bear is in contact with the person for whom the bear is killed.

(b) The member for whom the bear is killed possesses a current unused bear carcass tag valid for the bear management zone in which the bear is killed.

(3) A member who kills a bear under subs. (2) shall ensure that a member of his or her group bear hunting party without delay attaches a bear carcass tag to the bear prior to moving or field dressing it. No member who kills a bear while group hunting shall leave the bear unattended until after it is properly tagged.

7.14 Hunting with Non-Members. Except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members], no member may share with anyone who is not a member of one of the Bands any Band bear permit, carcass tag, gear, or bait except that

nothing in this ordinance shall be construed to prohibit a member from hunting with any person who is not a member of the Band during the State of Minnesota bear hunting season if that person has a state bear hunting license valid for that permit area and an unused tag.

7.15 Hunting Hours. No member shall hunt bear except during the hours established for hunting deer in Section 6.12, provided that a bear may be taken while hunting for deer as authorized by Section

6.20.

2 Transportation. All bears shall be transported in such a manner that inspection by registration agents or conservation officers is readily accomplished.

7.17 Hunting on Certain Public Lands Prohibited. No member shall hunt bear on any of the following public lands except as noted:

(1) Designated public campgrounds, public beaches, public picnic areas, and public water access

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sites.

- (2) Public lands within incorporated areas except
- (a) bow and gun hunting is permitted on lands which are designated for bow and gun hunting; and
- (b) bow hunting is permitted on lands which are designated for bow hunting.
- (3) All parks identified by Commissioner's Order under Section 3.29 except:
- (a) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or
- (b) parks or portions thereof in which hunting is allowed under State law, pursuant to a permit issued by the Department of Natural Resources in accordance with the agreement between the Bands and the State regarding special hunts in parks.
- (4) All wildlife refuges, scientific and natural areas, and other closed or restricted areas as established by Section 3.29, except as hunting is permitted by the Commissioner in those areas.

7.18 Hunting on Certain Private Lands Prohibited. As provided in Sec. 3.22(1), no member shall hunt bear on any privately owned land unless the lands are open to the general public for hunting by operation of state law.

7.19 Hunting Bear with Dogs. No member shall hunt bear with dogs.

7.20 Dens. No member shall hunt, shoot or disturb a bear in a den.

7.21 Landfills. No member shall hunt or shoot bear in any dump or sanitary landfill.

7.22 Cubs. No member may shoot, shoot at, or kill any bear cub or any adult bear accompanied by a cub or cubs.

7.23 Removal and Retention of Tags.

(1) No member who kills a bear pursuant to this ordinance shall remove a registration tag from the carcass until such time as the carcass is butchered or when the bear is prepared by a taxidermist.

(2) No member who kills a bear pursuant to this ordinance shall dispose of the registration tag until the meat is consumed.

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(3) Any person who receives any bear meat as a gift or pursuant to Section 7.24(2)(a) or (b) [Sale to Members] from a member who retains a registration tag under this section is not required to possess a registration tag.

7.24 Sale of Bear and Bear Parts.

(1) Head, skin, teeth, claws and paws. A member who has lawfully harvested and registered a bear pursuant to this ordinance may sell to another person the head, skin, teeth, or claws, whether attached to or separate from the carcass. The skin may contain the attached paws when sold.

(2) Meat. No member shall sell the meat of any bear killed pursuant to this ordinance, except in compliance with the following provisions and if sold for human consumption with the provisions of federal law applicable to the sale of meat for human consumption:

(a) Sale to Members. Any member who has lawfully harvested and registered a bear pursuant to this ordinance may sell the meat of any carcass, or any part thereof, of the bear to any other member provided no member who receives the meat pursuant to this subsection shall sell such meat to any person who is not a member.

(b) Sale to Members of Other Bands. Any member who has lawfully harvested and registered a bear pursuant to this ordinance may sell the meat of any carcass, or any part thereof, of the bear to a member of one of the other Bands provided that such other Band prohibits its member who receives the meat pursuant to this subsection from selling the meat to any person who is not a member of one of the Bands.

(c) Sale to Non-members. A member who has lawfully harvested and registered a bear pursuant to this ordinance may sell to a person who is not a member of one of the Bands only the whole carcass (except for the head, skin, teeth, claws and internal organs) of the bear, provided the member:

(i) complies with the commercial harvest provisions of Section 7.25; and

(ii) otherwise complies with the provisions of this ordinance applicable to bear hunting.

(3) Paws and Internal Organs.

(a) Sale to Non-Members. No member shall sell to any person who is not a member any paw which has been severed from the skin or any internal organ of any bear harvested

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pursuant to this ordinance.

- (b) Sale to Members. No member shall sell to another member any paw which has been severed from the skin or any internal organ of any bear harvested by the member pursuant to this ordinance except as follows:
 - (i) The member may sell any paw which has been severed from the skin or any internal organ of a bear lawfully harvested pursuant to this ordinance to any other member provided no member who receives any such part pursuant to this paragraph shall sell the part to any person who is not a member.
 - (c) Sale to the Band. Any member who has lawfully harvested and registered a bear pursuant to this ordinance may sell any paw which has been severed from the skin or any internal organ of the bear to the Band provided:
 - (i) the Band complies with the provisions of subs. (d), below; and
 - (ii) the member complies with the commercial harvest provisions of Section 7.25.
 - (d) The Band may purchase or otherwise obtain from a member who has lawfully harvested and registered a bear pursuant to this ordinance any paw which has been severed from the skin or any internal organ of the bear and may sell such part to any person provided:
 - (i) the Band maintains a record of all such transactions, including the name of the member, the name and address of the subsequent purchaser, the carcass tag and registration tag numbers of the bear which was lawfully harvested and the part or parts involved in the transaction;
 - (ii) a bill of sale or other similar document indicating the date of the transaction, the parties to the transaction, and the part or parts involved in the transaction; and
 - (iii) the sale is restricted to the exporting of such part outside the United States.

7.25 Commercial Harvest Regulated.

- (1) Purpose. The purpose of this section is to establish the regulations governing the harvest and registration of bear the meat of which, and the teeth, claws, paws or viscera when severed from the carcass of which, may be sold pursuant to this ordinance when subsequent sale or resale of the meat or such parts to non-members is contemplated.

- (2) Effective Date.
 - (a) The provisions of this section shall not take effect until such time as the governing body of the Band specifically declares them effective by an enabling resolution.
 - (b) No member shall sell any meat or sell any tooth, claw, paw or organ when severed from the carcass pursuant to this section prior to the effective date as declared by the governing body of the Band in accordance with subs. (a).
- (3) Commercial Harvest Permit Application.
 - (a) Any member who or a group of members which possesses a valid bear hunting permit may apply on such forms as the Band may prescribe to the Department of Natural Resources for an

additional permit authorizing the harvest of bear for commercial purposes on the terms and conditions prescribed by this section.

(b) The Department of Natural Resources shall grant or deny the application, and shall notify the applicant as soon as practicable of its decision.

(c) A decision to grant the application may impose conditions upon a Commercial Harvest Permit which are more restrictive than the conditions imposed by this section.

(4) Terms and Conditions of a Commercial Harvest Permit. A Commercial Harvest Permit:

(a) may authorize the permittee to harvest no more than the number of bear available for harvest in any one bear management zone;

(b) shall restrict the permittee's hunting of bear pursuant to the permit to only one bear management zone at any given time;

(c) shall require a member to register all bear harvested pursuant to the permit at a registration station operated by one of the Bands located within the bear management zone for which the permit is valid or within an adjoining management zone provided the bear is transported directly to a registration station in that adjoining unit on federal and state highways; and

(d) shall require that all members named on the Commercial Harvest Permit possess an official copy of the permit and at least one valid carcass tag while hunting pursuant to the

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permit.

(5) Registration of Entire Carcass Required. When registering a bear under a Commercial Harvest Permit, a member shall present the entire bear carcass (except for the viscera) for registration to an authorized registering official and no registering official shall register a bear under this section unless the entire carcass (except for the viscera) is presented for registration.

(6) Registration Tag Required. Upon registration, the registering official shall affix a commercial harvest registration tag to the carcass.

(7) General Tagging and Registration Requirements Unaffected. Except as modified by the provisions of this section, the provisions of Section 7.07 [Bear Hunting Permits/Tags] and 7.08 [Bear Registration] shall apply to members hunting pursuant to a Commercial Harvest Permit.

(8) Transfer of Entire Carcass Required.

(a) No member shall sell to any person who is not a member any bear registered under this section without transferring the entire carcass of such bear, except for the head, skin and viscera, the registration tag, and such accompanying documents as the Department of Natural Resources may require to the person to whom such bear is sold.

(b) (i) No member shall sell to any person who is not a member the head or skin of any bear registered under this section without transferring the entire skin with the head, claws and teeth attached, the registration tag if it has not been or will not be transferred pursuant to subs. (a), and such accompanying documents as the Band may require to the person to whom the skin is sold. If the registration tag is not available for transfer under this subsection because of transfer pursuant to subs. (a), the member shall transfer a document indicating the carcass tag and registration tag numbers of the bear from which the skin has been removed.

(ii) No member shall sell to the Band pursuant to Section 7.24(3)(c) any organ of any bear registered under this section without transferring to the Band the

information and documents required in Section 7.24(3)(d).

- 7.26 **Baiting of Bear.** A bear may be taken by the use of bait in compliance with Section 3.22 sub (13), provided that no member shall establish, service or maintain any bear bait station prior to the Friday nearest August 14.
- 7.27 **Shining.** No member shall hunt bear while shining, as defined in Section 3.15, except that during the open bear season established by Section 7.06 [Bear Season; Specific Regulations] a bear may

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be taken while hunting from a deer shining stand as authorized by Section 6.20.

- 7.28 **Authorization for Closure.** The Commissioner or his or her designee shall close any bear management zone to bear hunting prior to the season's closing date if no bear remain available for harvest under this ordinance in that zone.

CHAPTER 8 - SMALL GAME HARVESTING REGULATIONS

8.01 Purpose. The purpose of this chapter is to regulate small game hunting and trapping in the Minnesota Ceded Territory by members.

8.02 Definitions. For the purpose of this chapter, the following terms shall be construed as follows:

- (1) "**Bow**" shall have the meaning prescribed in Section 6.01(2).
- (2) "**Crossbow**" shall have the meaning prescribed in Section 6.01(3).
- (3) "**Firearm**" shall have the meaning prescribed in Section 6.01(4).
- (4) "**Hunt**" or "**Hunting**" shall have the meaning prescribed in Section 2.01(11) but shall not include trapping for the purposes of this chapter.
- (5) "**Trap**", in addition to the meaning prescribed in Section 2.01(20), means to trap or snare.
- (6) "**Unprotected Species**" means:
 - (a) Opossum, Coyotes (brush wolves), skunk, weasel, woodchuck, gophers, and porcupines;
 - (b) Starlings, English sparrows, Common pigeons, coturnix quail, chukar partridge, monk parakeet and rock doves; and
 - (c) All other unprotected species as defined in Section 2.01(16).

8.03 Open and Closed Seasons. A closed season is hereby established for the hunting and trapping of small game except for the specified open season.

8.04 Hunting/Trapping During Closed Season Prohibited. Except as otherwise expressly provided in this ordinance, no member shall hunt or trap small game in the Minnesota Ceded Territory during the closed season.

8.05 [Open.]

8.06 Small Game Quotas. The Band will limit the number of otter, bobcat, marten or fisher available for harvest by a treaty quota for each twelve month period commencing July 1 and ending June 30 when required by the Bands' *Treaty Wildlife Management Plan for the Minnesota 1837 Ceded Territory*.

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8.07 Small Game Harvest Permits/Tags.

- (1) (a) No member shall hunt small game pursuant to this chapter without possessing a valid small game hunting permit.
- (b) **[Open]**
- (2) (a) No member shall trap small game pursuant to this chapter without possessing a valid small game trapping permit.
- (b) **[Open]**
- (3) **[Open.]**
- (4) **[Open]**

8.08 Marten, Otter, Bobcat and Fisher Registration.

- (1) A member killing a marten, otter, bobcat or fisher pursuant to this ordinance shall register the animal by presenting it to a registration station operated by one of the Bands no later than 5:00 p.m. of the third working day after the close of the season for the species involved, or prior to sale of the animal or its skin, whichever is earlier.
- (2) Upon registering a marten, otter, bobcat or fisher pursuant to this section, the registering official shall affix a registration tag and shall duly record in an appropriate manner all information required to be provided by the member at the time of registration.
- (3) A member registering a marten, otter, bobcat or fisher shall provide the registering official with the following information: the sex of the animal taken, the deer management unit and county where the animal was taken, the date when the animal was taken, the Band identification number of the member taking the animal and any other relevant information requested by the registering official.
- (4) No member shall register a marten, otter, bobcat or fisher except by presenting the whole carcass to the registering official, or in the alternative, by providing the whole skin to the registering official.
- (5) No member shall provide information to the registering official which the member knows, or has reason to know, is false or misleading.
- (6) An officer of one of the Bands or Commission warden authorized pursuant to Section 4.02 to

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enforce the provisions of this ordinance is authorized to register marten, otter, bobcat or fisher in the field provided such warden transmits all registering information to a registration station operated by one of the Bands no later than the registration deadline established by subs. (1), above.

(7) No member shall fail to transfer the carcass, except for the skin, of any marten, bobcat, otter or fisher to the Department of Natural Resources or the Commission's Biological Services Division when requested unless the carcass was delivered to a licensed fur buyer.

8.09 Small Game Seasons; Specific Regulations.

(1) Annual small game trapping seasons for the time periods provided in subs. 2(b) and annual small game hunting seasons for the time periods provided in subs. 3(b) are hereby established.

(2) (a) For the purposes of small game trapping, seasons begin at 6:00 a.m. of the opening date and end at 11:59 p.m. of the closing date.

(b) The small game trapping season for all species listed in subs. 3(b) commences on October 1 and closes on March 31, except that there is no open trapping season for lynx, female pheasants, ruffed grouse or sharp-tailed grouse.

(3) (a) For the purposes of small game hunting, seasons begin and end in accordance with the applicable hunting hours prescribed in Section 8.10.

(b) Specific small game hunting seasons (all dates are inclusive):

(i) Badger Day after Labor Day - March 1

(ii) Bobcat October 1 - March 31

(iii) Beaver Year Around

(iv) Bobwhite Quail Day after Labor Day - March 31

(v) Coyote Year Around

(vi) Cottontail Rabbit Year Around

(vii) Fisher No Open Hunting Season

(viii) Hungarian Partridge Day after Labor Day - March 31

(ix) Lynx No Open Season

(x) Marten October 1 - March 31

(xi) Mink October 1 - March 31

(xii) Muskrat October 1 - March 31

(xiii) Otter No Open Hunting Season

(xiv) Pheasant Day after Labor Day - December 31

(xv) Raccoon Year Around

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(xvi) Red Fox Year Around

(xvii) Gray Fox Day after Labor Day - March 31

(xviii) Red, Gray and
Fox Squirrel Year Around

(xix) Ruffed Grouse Day after Labor Day - March 1

(xx) Sharp-Tailed Grouse Day after Labor Day - January 31

(xxi) Snowshoe Hare Year Around

(c) There is no daily bag limit for each species unless otherwise established by the Bands, in accordance with the provisions in the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding small game management.

(4) Nothing in this section shall be construed to authorize small game hunting or trapping or the opening of a small game hunting or trapping season for a particular species contrary to an Emergency Closure Order issued pursuant to Section 3.33 [Emergency Closures].

History: Sections 8.06, 8.07, 8.08 and 8.09 were amended December 2001.

8.10 Hunting Hours.

- (1) Except where otherwise expressly authorized by this ordinance, no member shall hunt small game except during the hours prescribed by this section.
- (2) Lawful small game hunting hours during open seasons are provided as follows:
 - (a) For all small game animals except fox, raccoon and unprotected species one half hour before sunrise to one half hour after sunset.
 - (b) **[Open.]**
 - (c) For fox, raccoon, and unprotected species, 24 hours per day except during the state deer season described in Section 6.07(3) when small game hunting hours shall be the same as deer hunting hours under this ordinance.

8.11 Hunting and Trapping on Certain Public Lands Prohibited. No member shall hunt or trap small game on any of the following lands except as noted:

(1) Designated public campgrounds, public beaches, public picnic areas, and public water access sites.

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- (2) Public lands within incorporated areas except for those lands which are designated for small game hunting or trapping.
- (3) All parks identified by Commissioner's order under Section 3.29 except:
 - (a) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or
 - (b) parks or portions thereof in which hunting is allowed under State law, pursuant to a permit issued by the Department of Natural Resources in accordance with the agreement between the Bands and the State regarding special hunts in parks.
- (4) All wildlife refuges, scientific and natural areas, and other closed or restricted areas established pursuant to Section 3.29, except as small game hunting or trapping is permitted by the Commissioner in these areas.

8.12 Hunting and Trapping on Certain Private Lands Prohibited. As provided in Sec. 3.22(1), no member shall hunt or trap small game on any privately owned land unless the lands are open to the general public for hunting by operation of state law.

8.13 [Open.]

8.14 [Open.]

8.15 Small Game Hunting Prohibited Methods. While hunting small game, no member shall:

- (1) Use or possess any device designed or used for the purpose of driving rabbits out of their holes or dens;
- (2) Use or possess any ferret;
- (3) Molest the nest or den of any squirrel; or
- (4) Use smoke, fire or mechanical devices (including dragging a rope, wire or other device across a field) to take small game.

8.16 Shining Raccoon, Fox or Unprotected Species.

(1) No member shall hunt raccoon, fox or any unprotected species while shining as defined in Section 3.15 except:

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- (a) While hunting on foot during the open season for the animal hunted, a member may possess or use a flashlight at the point of kill; or
- (b) While on foot training a dog to hunt or track raccoon, fox or any unprotected species, a member may possess or use a flashlight, provided the member may only have blank cartridges or shells in personal possession.

(2) No member shall hunt raccoon, fox or any unprotected species while shining during the State deer season described in Section 6.07(3).

8.17 Identification of Traps Required.

- (1) No member shall trap pursuant to this ordinance without affixing to each trap or snare a metal tag upon which shall be stamped or engraved the trapper's legible name and address and initials designated by the Department of Natural Resources indicating membership in the Band.
- (2) Any trap or snare which is untagged shall be immediately seized and confiscated, and the owner or member using or attending the untagged trap shall be subject to citation for a violation of the provisions of subs. (1).

8.18 Specific Trapping Regulations. No member shall:

- (1) Set out traps or snares except during the open season.
- (2) Set out bait or scent for attracting furbearing animals except during the open season.
- (3) Use sight-exposed bait, visible from above, consisting of feathers, animal flesh, fur, hide or entrails within 25 feet of a trap or snare.
- (4) Use water sets except during the open season for muskrat, beaver or otter.
- (5) Fail to check all dry land sets and snares and to remove all animals therein at least once each day.

- (6) Place on the ice any artificial house or den, or place therein any trap or snare, which has the purpose or may have the effect of taking furbearers.
- (7) Set, place, possess or operate on or adjacent to waters any trap other than a snare or steel-jawed trap or live-trap capable of capturing only one animal in a single setting for the purpose of taking furbearing animals.

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- (8) Set, place or operate any killer or conibear trap larger than 7" x 7" unless the trap is at least half submerged under water.
- (9) Set, place or operate any steel-jawed trap with a spread width of more than 8 inches.
- (10) Set, place or operate any steel-jawed trap with teeth unless the trap is placed or staked in such a manner as to permit the trap or trapped animal to reach water.
- (11) Set, place or operate any killer trap of the conibear type greater than 6" x 6" or 6" in diameter in the following locations:
 - (a) Within, or within 3 feet of, any privately constructed or any federal, tribal, state, county or township road right-of-way culvert unless completely submerged in water.
 - (b) Within 3 feet of any woven or welded wire mesh type fence.
 - (c) Within 100 yards of any building devoted to human occupancy without the owner's consent.
- (12) Make an opening in a muskrat house for the purpose of trapping, or otherwise damage a muskrat house, runway or bank den, unless the opening is plugged by replacing all materials removed to prevent freezing within the structure. Traps may be set at natural entrances to muskrat runways and bank burrows.
- (13) Damage a beaver house or dam or set a trap of any kind inside a beaver house or above the water line on the outside of a beaver house.
- (14) Fail to check at least once each day all watersets not capable of drowning an animal and remove any animal captured.
- (15) Except for traps set under the ice, fail to check at least once each third day all watersets capable of drowning a captured animal and remove any animal captured.
- (16) The Commissioner may by order prohibit Band members from setting out snares except where the snare loop is at least half-submerged under water in the portions of the Minnesota Ceded Territory south of a line following Highway 95 from Taylor Falls to Highway 169, Highway 169 to County Road 16, County Road 16 to County Road 32, County Road 32 to County Road 33, County Road 33 to County Road 34, and County Road 34 to the Mississippi River.

8.19 Specific Snaring Regulations. No member shall trap small game by the use of a snare except

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in compliance with the following provisions:

- (1) Any snare must be anchored so that it may not be dragged.
- (2) Any snare must be tagged as in Section 8.17(1).
- (3) No snare may be spring activated.
- (4) Any snare must be set in a manner which prevents an animal from being suspended unless it is attached to a drowning mechanism.
- (5) Any upland snare must be removed no later than March 31.
- (6) Any water set snare must be removed no later than March 31.

- (7) Except as provided in subs. (13), any snare must have a mechanical lock which will prevent the snare loop size from becoming smaller than 2-1/2 inches.
- (8) Except as provided in subs. (13), any snare must have a swivel device on the anchor end.
- (9) Any snare or cable wire may not have a diameter exceeding 1/8 inch.
- (10) No upland snare shall be set on a well defined deer trail.
- (11) No upland snare shall be set such that the bottom of the loop is more than 6" above the ground or, when the ground is snow covered, more than 6" above the level of the adjoining trail.
- (12) No upland snare shall be set with a loop size greater than 10" in diameter.
- (13) Members may use braided picture wire snares without locks or swivels for the purpose of snaring rabbits or hares.

8.20 Possession and Sale of Live Small Game Animals.

(1) As used in this section, the following terms shall be construed to apply as follows:

(a) "**Control temporarily**" means to possess a small game animal for a limited period of time for one of the following purposes:

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- (i) Removal or transportation of a small game animal from one location to a more appropriate location;
- (ii) Restraint or transportation of a small game animal for treatment or medical care; or
 - (iii) Restraint or transportation of a small game animal for game censuses, surveys or other purposes authorized by the Band.

(b) "**Possess**" means to own, restrain, keep in captivity or transport a small game animal.

- (2) Except as otherwise authorized by controlling law or as provided in subs. (3), no member shall possess, or sell or otherwise transfer to any person, any live small game animal and any member who takes any small game animal shall kill the animal when it is taken or shall immediately release the animal.
- (3) A member may control temporarily a live small game animal for one of the purposes described in subs. (1)(a), but not for the purpose of selling the live animal.

8.21 Incidental Take. Any member taking any animal by trapping except during the open season for that animal shall surrender the animal as soon as practicable to the Department of Natural Resources, or shall immediately release the animal if the animal was live trapped.

8.22 Shipment of Furs. No member shall send or ship any fur from an animal harvested pursuant to this chapter unless all fur shipments are marked on the outside of the package showing the number and kinds of hides in the shipment and the name and address of the shipper.

8.23 Sale of Small Game Authorized.

- (1) Nothing in this ordinance shall be construed to prohibit any member from selling the carcass, or any part thereof, of any lawfully harvested small game animal to any person, provided that if a member sells meat for human consumption the member shall comply with the provisions of federal law applicable to the sale of meat for human consumption.
- (2) The provisions of Section 3.28 [Records of Commercial Transactions] shall not apply to the sale of the fur of any small game furbearing species.

8.24 Authorization for Closure. The Commissioner, or his or her designee, shall close the small game hunting and trapping season for marten, otter, bobcat or fisher if no marten, otter, bobcat or fisher remain available for harvest under this ordinance.

8.25 Sharing of Equipment/Assisting Band Member. No member shall share any small game

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hunting or trapping equipment with or otherwise be assisted while small game hunting or trapping by any person who is not a member of one of the Bands, except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members].

8.26 Wild Turkey Hunting Regulations.

- (1) Permit Required. No member shall hunt wild turkeys without possessing a valid small game hunting permit issued pursuant to the provisions of this chapter.
- (2) Tags for Turkey Harvest Zones. No member shall hunt wild turkeys except in a wild turkey harvest zone established by Commissioner's Order and while in possession of a carcass tag issued by the Department of Natural Resources valid for that zone.
- (3) Season. No member shall harvest any wild turkeys except during the open season which shall be established by Commissioner's Order.
- (4) Bag Limit. No member shall harvest any wild turkey within a wild turkey harvest zone in excess of the number of valid carcass tags issued to him or her pursuant to subs. (2) for that zone, and no member shall fail to affix a valid carcass tag to a turkey immediately upon reducing the turkey to possession.
- (5) [Open.]
- (6) Turkey Quotas. The Band will limit the numbers of bearded and beardless turkeys that may be harvested in each wild turkey management zone by a treaty quota when required by the Bands' *Treaty Wildlife Management Plan for the Minnesota 1837 Ceded Territory*.
- (7) Methods of Turkey Harvest. No member shall hunt wild turkeys:
 - (a) By any means other than a 20 gauge or larger shotgun or muzzle-loading shotgun 12 gauge or larger, using fine shot size No. 4 or smaller diameter shot, or a bow and arrow or a crossbow.
 - (b) With the aid of recorded bird calls or sounds or electrically amplified imitations of bird calls or sounds.
 - (c) With the aid of dogs.
 - (d) With live decoys for the purposes of enticing wild turkeys.
- (8) Registration Required.

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- (a) A member killing a wild turkey pursuant to this ordinance shall present the carcass for registration to a Band registration station no later than 5:00 p.m. of the third working day following the killing.
- (b) No member shall fail to inform the Band registration station of the location, including the wild turkey management zone if applicable, where the animal was killed or to provide such other information as is required by the registering official.
- (c) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.
- (d) Any officer of one of the Bands or Commission warden authorized pursuant to Section

4.02 to enforce the provisions of this ordinance is authorized to register wild turkeys in the field provided such warden provides all registering information to a Band registration station no later than 5:00 p.m. of the third working day after field registration.

- (9) Other Restrictions Applicable.
- (a) While hunting wild turkeys, no member shall fail to comply with the other restrictions applicable to hunting generally or to small game hunting specifically, such as hunting hours, which are not modified or otherwise affected by the provisions of this section.
- (b) (i) No member shall hunt wild turkeys in any area designated pursuant to subs. (b)(ii) as a wild turkey reintroduction area.
- (ii) The Commissioner, or his or her designee, is hereby authorized, to designate certain areas within the Minnesota ceded territory as wild turkey reintroduction areas in which the hunting of wild turkeys shall be prohibited.
- (10) Authorization for Closure. The Commissioner or his or her designee shall close any wild turkey management zone to bearded or beardless turkey hunting if no bearded or beardless turkeys remain available for harvest under this ordinance.

History: Section 8.26 was amended December 2001.

8.27 Small Game Hunting Caliber Restrictions. No member shall hunt any bobwhite quail, hungarian partridge, pheasant, ruffed grouse or sharp-tailed grouse with a rifle (other than a .22 caliber rifle) or a shotgun loaded with a single ball or slug or shot larger than no. BB.

8.28 Taking Animals Causing Damage. Notwithstanding any other provision of this chapter, a

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member may take mink, squirrel, rabbit, hare, raccoon, bobcat, fox, muskrat, or beaver on land owned or occupied by the member where the animal is causing damage. The member may take the animal without a license and in any manner except by poison, or artificial lights in the closed season. Raccoons may be taken under this section with artificial lights during the open season. A member that kills mink, raccoon, bobcat, fox, muskrat, or beaver under this section must bring the entire animal to a Band or Commission conservation officer within 24 hours after the animal is killed.

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CHAPTER 9 - FISH HARVESTING REGULATIONS

9.01 Definitions. For the purpose of this chapter, the following terms shall be construed as follows:

- (1) "**Dip Net**" means a piece of netting suspended from a round or square frame not exceeding five (5) feet in diameter or five (5) feet in width and five (5) feet in length.
- (2) "**Fyke Net**" or "**Trap Net**" means a device constructed of netting which may employ a frame, wings or wings and leads, and which directs the movement of fish through a funnel of netting into inner hearts or built-in forebays wherein the fish are trapped by their own movement.
- (3) "**Gillnet**" means any net set to capture fish by entanglement rather than entrapment.
- (4) "**Hook and Line**" means a rod and reel or similar device including a tip up and hand held lines, and includes trolling.
- (5) "**Ice Fishing**" means fishing through an artificial hole in the ice.
- (6) "**Net**" means any dip net, fyke net, gill net or seine and when used as a verb means to fish with any of these nets.
- (7) "**Open Water Fishing**" means all fishing other than fishing through an artificial hole in the ice.
- (8) "**Seine**" means a net of mesh no larger than 2" stretch measure, with floats at the top and weights at the bottom, such that it hangs vertically in the water, and which is drawn through the water to capture fish by encircling them rather than entangling them.
- (9) "**Spear**" means a pole tipped with a minimum of three barbed tines which are a minimum of 4-1/2" long and each tine having a barb extending perpendicular which is greater than 1/8 inch; and when used as a verb, means reducing or attempting to reduce to possession fish by means of a hand held spear or other similar device which is directed by the spearer for the purpose of impaling the target fish, and may include the use of artificial light. When used as a verb, spear shall also mean snagging for the purpose of this ordinance.
- (10) "**Set or Bank Pole**" means a pole used for fishing from the banks of lakes or rivers in compliance with the provisions of Section 9.09.
- (11) "**Setline**" means a line used for fishing in compliance with the provisions of Section 9.09.
- (12) "**Snagging**" means attempting to take or reduce a fish to possession by hooking a fish in a

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place other than the mouth by the use of a hook and line or any other device which is not a net or spear.

(13) "**Troll**" means to fish from a motor-driven boat when the motor is running, from any boat in tow of a motor-driven boat when the motor is running, or from a sailboat when in motion.

9.02 Open and Closed Season. A closed season is hereby established for fishing except for the open seasons specified in this chapter.

9.03 Fish Available for Harvest. The quantity of fish available for harvest pursuant to this

Section 9.06, and snagging

provided otherwise in Section 9.06

(iii) All waters Setline, set or bank Year Around 10 per person/ day None pole subject to section 9.09

(iv) All waters All nets (except Year Around 10 per person/ None gillnets) subject day except as to Section 9.07 provided otherwise in Section 9.07

(v) Waters desig- Gillnets subject June 1 to See Section 9.08 None nated in section to Section 9.08 March 1 (2)(c) 9.08(2)

(b) Walleye.

(i) All waters Open water hook & Year Around 10 per person/ None line fishing, ice day fishing (including spearing when ice fishing)

(ii) All waters Open water spear-Year Around Established by Maximum of 20 ing subject to permits issued inches except

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Section 9.06, and snagging

pursuant to Section 9.06

each fisher may take one fish 20-24 inches and one fish any size per permit

(iii) All waters All nets (except Year Around gillnets) subject to Section 9.07

Established by permits issued pursuant to Section 9.07

Identifiable males only prior to May 1. Maximum of 20 inches thereafter.

(iv) All water Setline, set or bank Year Around pole subject to Section 9.09

10 per person/ day

None

(v) Waters designated in Section 9.08(2) Gillnets subject June 1 to to Section 9.08 March 1, except Mille Lacs Lake open Year Around

See Section 9.08(2)(c)

None

(c) Northern Pike.		Year	10 per person/ day	None
(i) All waters	Open water hook & line fishing, ice fishing (including spearing when ice fishing)	Around		
(ii) All waters	Open water spearing subject to Section 9.06, and snagging	Year Around	10 per person/ day except as provided otherwise in Section 9.06	None
(iii) All waters	Setline, set or bank pole subject to Section 9.09	Year Around	10 per person/ day	None
(iv) All waters	All nets (except gillnets) subject to Section 9.07	Year Around	10 per person/ day except as provided otherwise in Section 9.07	None

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(v) Waters designated Gillnets subject to Section 9.08 March 1 to Section 9.08(2)(c) 9.08.

(d) Lake Sturgeon.

(i) St. Croix River below Taylors' fishing (including Falls)	Open water hook & line fishing, ice spearing when ice fishing) (except as provided in Sec. 9.26)	June 1 to March 1 (except as provided in Sec. 9.26)	1 per person/ year, all methods (except as provided in Sec. 9.26)	45 inch minimum size limit (except as provided in Sec. 9.26)
(ii) St. Croix River below Taylors' Falls	Open water spearing and snagging (except that Section 9.06 and	June 1 to March 1 1 sturgeon	1 per person/ year, all methods (except as provided in Sec. 9.26)	45 inch minimum size limit (except as provided in Sec. 9.26)

and spearing while per lake may

ice fishing be taken by all members during spring spearing and except as provided in Sec. 9.26)

(iii) St. Croix Setline, set or June 1 to 1 per person/ 45 inch minimum River be-bank pole subject March 1 year, all methods size limit (except low Taylors' to Section 9.09 (except as (except as provided as provided in Falls provided in in Sec. 9.26) Sec. 9.26) Sec. 9.26)

(iv) St. Croix All nets (except June 1 to 1 per person/ 45 inch minimum River be-gillnets) subject March 1 year, all methods size limit (except low Taylors' to Section 9.07 (except as (except as provided as provided in Falls provided in in Sec. 9.26) Sec. 9.26) Sec. 9.26)

□ (v) St. Croix Gillnets subject June 1 to 1 per person/ 45 inch minimum River be-to Sec. 9.08 March 1 year, all methods size limit (except Taylors' (except as (except as provided as provided in Falls provided in in Sec. 9.26) Sec. 9.26)

Sec. 9.26)

□ (e) **Muskellunge.**

□ (i) All waters Open water hook & Year Around 2 per person/ 40 inch minimum line fishing, ice day size limit (except

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fishing (including spearing when ice fishing)

no limit when ice spearing in lakes other than Mille Lacs)

(ii) All waters Open water spearing subject to Section 9.06; and Year Around Established by permits issued pursuant to 40 inch minimum size limit (except no limit in lakes

snagging to Section 9.06 other than Mille Lacs)

(iii) All waters Setline, set or Year Around 2 per person/ 40 inch minimum bank pole subject day size limit to Section 9.09

(iv) All waters All nets (except Year Around Established by 40 inch minimum gillnets) subject permits issued size limit to Section 9.07 issued pursuant to Section 9.07

□ (v) Waters desig- Gillnets subject to June 1 to See 40 inch minimum nated in Section Sec. 9.08 March 1 Section 9.08(2)(c) size limit 9.08(2)

□ (f) **Trout and Salmon (except Lake Trout).**

- (i) All waters Hook & line January 1 to 5 per person/ None except spring September 30 day in aggregate ponds
- (ii) Spring ponds Hook & line First Satur-5 per person/ None day in May to day in aggregate September 30
- (g) Lake Trout.**
- (i) All waters Open water hook & Year Around 5 per person/day None line fishing, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to Sec. 9.06.
- (h) White Bass, Rock Bass, Bluegill, Crappie, Pumpkinseed, Yellow Perch, Yellow Bass, Catfish.**
- (i) All waters Open water hook & Year Around None None

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line fishing, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to Section 9.06; setline, set or bank pole subject to Section 9.09; all nets (excluding gillnets) subject to Section 9.07.

(ii) Waters designated in Sec. 9.08(2)	desig-Gillnets subject Year Around	None	None
--	------------------------------------	------	------

(i) Cisco and Whitefish.

(i) All waters Hook & line; ice fishing (including spearing when ice fishing); open water spearing and snagging subject to Sec. 9.06; setline, set or bank pole subject to Sec. 9.09; all nets (excluding gillnets) subject to Section	Year Around	None	None
--	-------------	------	------

9.07

(ii) Waters desig-Gillnets subject Year Around
nated in Sec. to Sec. 9.08
9.08(2)

None

None

(j) Rough Fish.

(i) All waters All methods unless Year Around
otherwise speci
fically prohibited
by this ordinance
except gillnetting

None

None

(ii) Waters desig-Gillnets subject Year Around

None

None

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nated in Sec. to Sec. 9.08 9.08(2)

(k) Paddlefish or Spoonbill

Catfish. All waters -- No Open Season

(5) (a) The Commissioner his or her designee is hereby delegated the authority to implement a quota management system for the harvest of any species of fish by one or more methods, in accordance with the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.).

(b) If it becomes necessary to implement a quota management system for spearing or netting for a particular species in a particular body of water:

- (i) The Bands shall establish the treaty quota after consultation with the State Department of Natural Resources regarding the total harvestable surplus of the species, and in accordance with the provisions of the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.) regarding fisheries management.
- (ii) The Department of Natural Resources shall issue open water spearing and netting permits for the species, which shall set forth any daily bag limits applicable to the species in accordance with Sections 9.06, 9.07 and 9.08.

(iii) No Band member shall net or spear the species without possessing and complying with all terms of such a permit, or in excess of any applicable daily bag limit; and

(v) All Band harvest by spearing and netting for the species shall cease once the quota is taken.

9.06 Spearing Regulated.

- (1) Except while ice fishing, no member shall use or possess any spear on any body of water unless the member possesses a valid permit authorizing the use of a spear on that body of water.
- (2) The Department of Natural Resources may issue an open water spearing permit to a member provided:
 - (a) An open season exists for the species to be fished;
 - (b) The permit shall be valid for no more than 1 day for the spearing of walleye, muskellunge, sturgeon and other game fish;
 - (c) The permit sets forth the respective daily bag limits, as determined by the Commissioner, for walleye and muskellunge, and for any other species if a quota management system has been implemented under § 9.05(4) for that species;
 - (d) If a quota management system for a species has been implemented under Section 9.05(4),

time by all Bands shall not exceed the treaty quota divided by the respective daily bag limit for the species;

- (e) The permit designates the body of water for which the permit is valid;
 - (f) No spearing permit issued pursuant to this section and no netting permit issued pursuant to Section 9.07 or 9.08 shall be simultaneously valid for any body of water except for Mille Lacs Lake;
 - (g) The permit requires the member's signature; and
 - (h) The Department of Natural Resources may impose such other terms and conditions as it deems necessary or appropriate, including biological monitoring requirements appropriate to the level of harvest activity on any body of water.
-
- (3) The Department of Natural Resources may issue an ice spearing permit provided an open season exists for the species to be fished. The permit shall require the member's signature and may incorporate such other terms and conditions as the Department deems necessary or appropriate.
 - (4) No member shall fish by the use of a spear contrary to the terms and conditions of any spearing permit which has been issued to him or her.
 - (5) No member shall fish with the use of a spear which does not meet the requirements of Section 9.01(9) [Spear Defined].
 - (6) No member shall possess any fish harvesting devices other than a spear while engaged in open water spearing.
 - (7) No member shall share spearing equipment with any person who is not a member of one of the Bands, except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members].
 - (8) The Department of Natural Resources shall not issue a permit for spearing a particular species of fish in a particular body of water under this section if the treaty quota for that species has been taken in that body of water or if that body of water is otherwise closed to spearing.
 - (9) The Department of Natural Resources shall not issue an open water spearing permit under this section for game fish unless a monitor(s) will be present at the landing(s) to monitor the spearing harvest.

9.07 Dip Nets, Fyke Nets and Seines Regulated.

(1) Except while netting for minnows pursuant to Section 9.19(2), no member shall use or possess any dip net, fyke net or seine on any body of water unless the member possesses a valid permit authorizing

the use of a dip net, fyke net or seine on that body of water.

- (2) The Department of Natural Resources may issue a dip netting, fyke netting or seining permit, provided:
 - (a) An open season exists for the species to be fished;
 - (b) The permit shall be valid for no more than 1 day;
 - (c) The permit sets forth the respective daily bag limits, as determined by the Commissioner,

- for walleye and muskellunge, and for any other species if a quota management system has been implemented under §9.05(4) for that species;
- (d) If a quota management system for a species has been implemented under Section 9.05(4), the respective number of netting permits issued by all Bands shall not exceed the remaining treaty quota divided by the respective daily bag limit for the species;
- (e) Netting for all species with dip nets, fyke nets or seines is limited to one body of water for the duration of the permit;
- (f) No netting permit issued pursuant to this section, no gillnetting permit issued pursuant to Section 9.08 and no spearing permit issued pursuant to Section 9.06 shall be simultaneously valid for any body of water except Mille Lacs Lake;
- (g) The permit shall require that all nets authorized comply with appropriate marking and safety requirements;
- (h) The permit requires the member's signature;
- (i) Permits issued pursuant to Section 9.19 [Bait Dealers Regulated] shall be governed by the provisions of that section; and
- (j) The Department of Natural Resources may impose such other terms and conditions as it deems necessary or appropriate, including biological monitoring requirements appropriate to the level of harvest activity on any body of water.
- (3) No member shall fish by the use of a dip net, fyke net or seine contrary to the terms and conditions of any netting permit which has been issued to him or her.
- (4) No member shall fish with the use of a dip net, fyke net or seine which does not meet the requirements of Section 9.01(1) [Dip Net Defined], Section 9.01(2) [Fyke Net Defined], or Section 9.01(8) [Seine Defined].
- (5) Except while netting for minnows pursuant to Section 9.19, no member shall possess any fish

harvesting device other than a dip net, fyke net or seine while engaged in netting under this section.

- (6) No member shall share netting equipment authorized under this section with any person who is not a member of one of the Bands, except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members].
- (7) The Department of Natural Resources shall not issue a permit for netting a particular species of fish on a particular body of water under this section if the treaty quota for that species has been taken in that body of water or if that body of water is otherwise closed to netting.
- (8) The Department of Natural Resources shall not issue a permit for dip net, fyke net, or seine under this section unless a monitor(s) will be present at the landing(s) to monitor the dip net, fyke net, or seine harvest.

9.08 Gillnets Regulated.

- (1) No member shall use or possess any gillnet on any body of water unless the member possesses a valid permit authorizing the use of a gillnet on that body of water.
- (2) The Department of Natural Resources may issue a gillnetting permit for: any lake in

excess of 1,000 acres; Ogechie, Onamia or Shakopee Lakes; approximately five miles of the Rum River connecting these lakes; Grindstone Lake; Lake Eleven; Pine Lake; Razor Lake; South Stanchfield Lake; Whitefish Lake; and the 20 miles of the St. Croix River downstream from the point where the river commences as the border between Minnesota and Wisconsin, provided:

- (a) An open season exists for the species to be fished;
- (b) The permit shall be valid for no more than 1 day for any species of game fish;
- (c) The permit sets forth the respective daily bag limits for all species which can be harvested with gillnets under § 9.05(3), and/or other management measures to control the harvest of such species or any other species that might be harvested incidentally, including without limitation restrictions on the length, depth or bar size of nets, soak times, or location of harvest, as determined by the Commissioner in accordance with the provisions in the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding fisheries management.
- (d) Except as provided in subs. (13), any number of permits may be issued at any one time for any lake but the total length in feet of all gillnets authorized for all permits issued by all Bands on any one lake shall not exceed the number of walleye remaining available for harvest in that lake multiplied by 10;
- (e) Gillnetting for all species is limited to one body of water for the duration of the permit;

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- (f) No gillnetting permit issued pursuant to this section, no spearing permit issued pursuant to Section 9.06 or netting permit issued pursuant to Section 9.07 shall be simultaneously valid for any body of water except Mille Lacs Lake;
- (g) The permit requires the member's signature;
- (h) Except as provided in Subs. (13), the permit shall establish the location of where the net is set and time the net shall be lifted. No permit shall be issued unless a monitor is available at the time the net is lifted.
- (i) Except as provide in Subs. 2(c) and (13), the maximum length, depth and bar size of a gillnet shall be as follows:

DATES MAXIMUM ALLOWABLE LENGTH MAXIMUM DEPTH MAXIMUM BAR SIZE

Year around 100 feet 4 feet 1.75 inches

(j) The Department of Natural Resources or the Commission may impose such other terms and conditions as it deems appropriate or necessary, including such biological monitoring requirements appropriate to the level of harvest activity on any body of water.

- (4) No member shall fish by the use of a gillnet contrary to the terms and conditions of any gillnetting permit which has been issued to him or her.
- (5) No member shall fish with the use of a gillnet which does not meet the requirements of Section 9.01(3) [Gillnet Defined].
- (6) No member shall possess any fish harvesting device other than a gillnet while engaged in gillnetting under this section.

- (7) No member shall share gillnetting equipment authorized under this section with any person who is not a member of one of the Bands, except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Member].
- (8) Where an annual treaty quota for any fish species as described in Section 9.03 has been taken on a body of water by any method or combination of methods, no gillnetting under this section may take place on that body of water until the following fishing year.
- (9) No member shall fish with any gillnet unless the gillnet is marked in compliance with the following provisions:

(a) Each gillnet shall be marked with two flags or floats, one on each end;

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- (b) Each flag pole shall be two feet or more above the water and have a diameter of two-and-one-half inches or less;
 - (c) Each flag shall be white and ten inches square or larger; or
 - (d) Each float shall be visible from shore;
 - (e) A net shall have attached securely to it an identification tag issued by the Department of Natural Resources showing the band member's identification number.
-
- (10) No member shall set a gillnet in open water with a topline within 3 feet of the water's surface unless the gillnet is buoyed at 100 foot intervals.
 - (11) No member shall set any gillnet in an unsafe manner which shall unreasonably expose boaters and other users of the lake to a foreseeable risk of imminent bodily harm or property damage, or contrary to such other restrictions as the Department of Natural Resources may require.
 - (12) No member shall remove a gillnet from a lake without first removing from the gillnet and returning all crayfish to the water or killing all crayfish entangled in the gillnet.
 - (13) Except as otherwise provided in Subs. (2)(c), no member shall fail to lift any gillnet at least two times in each continuous 24 hour period during which the net is set, or more frequently as water temperatures may require so as to avoid the spoilage of any fish taken by the net.
 - (14) Notwithstanding the provisions of subs. (2)(d), 2(h) and (2)(i), the Department of Natural Resources may issue a permit for gillnetting ciscos (tullibees) on such terms and conditions as it deems necessary or appropriate, provided that at a minimum all other provisions of this section shall otherwise apply to cisco gillnetting permits.

9.09 Harpooning and Archery Equipment Regulated.

- (1) Harpooning equipment may not be used within 1,000 feet of an established swimming beach. Harpooning equipment may be discharged only when both the equipment and the operator are entirely beneath the surface of the water and may not be carried in a cocked position while out of the water.
- (2) Archery equipment may not be used to take rough fish unless the arrows are tethered or controlled by an attached line. The use of crossbows is prohibited.

9.10 Setlines and Set or Bank Poles Regulated.

(1) No member shall fish with or set any setline or set or bank poles except in accordance with the following provisions:

(a) A maximum of 20 set or bank poles and 1 setline may be used in no more than 3 bodies

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of water at any one time.

- (b) Setlines shall be marked at one end by a white flag ten inches square or larger held by a pole three feet or more above the surface of the water or bank; the pole shall not be more than two-and-one-half inches in diameter and, if a buoy is used to hold the pole, it shall be round or ovate in shape and have a diameter of fifteen inches or less; the pole shall not be placed in the main channel of any navigable waterway.
 - (c) Each set or bank pole and each setline shall have attached securely to it a legible identification tag issued by the Tribe showing the member's tribal affiliation and tribal identification number.
 - (d) Setlines or set or bank poles shall not be equipped with stainless steel hooks.
 - (e) A set or bank pole may not be equipped with more than one line which shall not have more than 2 hooks.
 - (f) A setline shall not have more than 10 hooks.
 - (g) Each set or bank pole and setline shall be lifted and the catch removed at least once each day following the day it was set.
 - (h) Set or bank poles and setlines may only be set, attended or lifted from one hour before sunrise to one-half hour past sunset.
 - (i) The Department of Natural Resources may impose such other terms and conditions as it deems appropriate or necessary, including such biological monitoring requirements appropriate to the level of harvest activity on any body of water.
- (2) No member shall fish with any set or bank pole or setline which does not meet the requirements of Section 9.01(10) [Set or Bank Pole Defined] or Section 9.01(11) [Setline Defined].
- (3) No member shall possess any fish harvesting device other than a set or bank pole or setline while setting, lifting or attending a set or bank pole or setline.
- (4) No member shall share any set or bank pole or setline with any person who is not a member of one of the Bands, except as provided in Section 3.30 [Permissible Conduct/Assistance by Non-Members].

9.11 Designated Landings May Be Required.

(1) In issuing spearing or netting permits pursuant to Sections 9.06, 9.07 or 9.08, the Department of Natural Resources may require permittees to use only designated landings for entering upon and exiting from a body of water.

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- (2) When so required, no member shall enter upon or exit from a body of water except at such landings designated by the Department of Natural Resources pursuant to subs. (1).
- (3) Notwithstanding the provisions of subs. (1) and (2), a member may exit from a body of water at a location other than a designated landing when necessitated by weather conditions, considerations of personal safety or other appropriate circumstances.

9.12 Reporting and Monitoring.

- (1) No member shall fail to complete catch reports in the manner required by the Department of Natural Resources or comply with any catch monitoring requirements imposed by the Department with respect to any fishing method authorized by this chapter.
- (2) The Department of Natural Resources shall issue no further permits under this chapter to any member who has failed to complete and return any creel census questionnaire or other catch report required by subs. (1).
- (3) In the event that a member fails to report or return a census questionnaire, the Department of Natural Resources shall count the total number of fish allowed by that member's permit against the treaty quota/harvest until such report or census questionnaire is completed and returned in compliance with this section.

9.13 Open Water Hook & Line Fishing Regulated.

- (1) Except as provided in Section 9.09 [Setlines and Set or Bank Poles Regulated], no member shall:
 - (a) Engage in open water fishing by the use of hook and line with more than six lines with a maximum of two hooks or lures per line; or
 - (b) Engage in open water fishing by the use of any hook and line which is physically unattended for a period of more than one hour.
- (2) Any member engaged in open water fishing by use of any unattended hook and line shall attach to such line a visible identification tag issued by the member's Tribe showing the member's tribal affiliation and tribal identification number.
- (3) Nothing in this ordinance shall be construed to prohibit any member from trolling on any body of water while engaged in open water fishing by the use of hook and line.

9.14 Ice Fishing Regulated.

- (1) No member shall ice fish by the use of hook and line through a hole larger than 12 inches in diameter.

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- (2) No member shall ice fish by the use of a spear through a hole larger than 24 inches by 36 inches.

- (3) No member shall ice fish with unattended lines.
- (4) No member shall ice fish within an ice fishing house or other enclosure, unless the enclosure is equipped with a latch which will permit the door to be readily opened from the outside at all times while the house is occupied.
- (5) No member shall place, maintain or use a house or other enclosure for ice fishing on any body of water unless the owner's name and address or the owner's drivers license number and a durable license tag supplied by the Department of Natural Resources is clearly displayed on the outside of the house.
- (6) No member shall fail to remove an ice fishing house or other enclosure from any body of water on or before March 1 or as otherwise determined by the Department of Natural Resources except that portable shelters may be used while ice fishing after that date provided the portable shelter is removed daily from the ice.
- (7) No member shall share any ice fishing gear, including any spear, with any person who is not a member of one of the Bands except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members].
- (8) Uncovered holes through the ice must be marked in a manner prescribed by the Department of Natural Resources. Signs indicating winter ice dangers shall bear a two-inch wide orange-colored band forming an upright diamond at least 14 inches in outside height and a printed statement of the source of the danger. The signs shall completely line the perimeter of the ice hazard at intervals not exceeding 75 feet and shall be at least 48 inches above the ice.

9.15 Possession Limit.

(1) (a) Except as provided in subs. (3) and (4), no member shall have in his or her possession any number of fresh fish of any species greater than double the daily bag limit of that species.

(b) For the purposes of this section, "**fresh**" means unspoiled and never frozen once removed from a body of water.

- (2) Except as provided in subs. (3) and (4), no member shall possess more than one daily bag limit of any species of fish while on any body of water or while fishing.
- (3) The possession limits of this section shall not apply to fresh walleye lawfully taken pursuant to permits issued under Sections 9.06 [Spearing], 9.07 [Netting] or 9.08 [Gillnetting] when such walleye have been monitored and counted as the permittee leaves a body of water.

- (4) The possession limits of this section shall not apply to fresh fish tagged for sale pursuant to Section 9.21.

9.16 Lake Sturgeon Tagging Required.

- (1) No member shall fail to register with the Department of Natural Resources any lake sturgeon harvested pursuant to this ordinance prior to 5:00 p.m. of the next working day following the harvest.
- (2) Upon registering a lake sturgeon, the registering official shall firmly affix a registration tag of the locking variety to the carcass.

9.17 Incidental Take by Gillnet.

- (1) No member shall retain possession of any species of fish for which gillnetting is not permitted or in excess of any applicable daily bag limit, if harvested in a gillnet, and no member shall fail to either:
 - (a) Return to the water any such fish which appears capable of surviving (that is, is able to maintain itself upright), provided that tullibee shall not be returned to the water and, when water temperatures are over 50 degrees, yellow perch shall not be returned to the water; or
 - (b) Transfer possession of such fish as soon as practicable to the Department of Natural Resources or to a person authorized to enforce this ordinance.
- (2) Any such fish transferred pursuant to subs. (1)(b) shall be disposed of by the Band for charitable purposes but shall not be returned to the member or his or her family, as defined in Section 2.01(14A).
- (3) Any fish take as incidental catch shall be counted toward any applicable treaty quota for that species.

9.18 Live Bait Restrictions.

- (1) No member shall use as live bait while fishing pursuant to this ordinance: carp, goldfish, redhorse, fresh water drum, burbot, bowfin, garfish, buffalo fish, lamprey, alewife, gizzard shad, smelt, goldeye, mooneye, carpsucker, quillback, ruffe, crayfish or other non-native or exotic species designated by the Commissioner.
- (2) No member shall import minnows into the State of Minnesota or release any minnow or other bait fish on any waters or shores.
- (3) No member shall use as bait while fishing in a water body pursuant to this ordinance game fish taken from another water body.

9.19 Carp Fingerlings. No member shall transport carp fingerlings, provided that live carp fingerlings, except grass carp, taken on Minnesota-Wisconsin boundary waters, may be transported for sale or for bait only by boat or other floating conveyance on the boundary waters where taken.

9.20 Fishing in Certain Locations Prohibited or Restricted.

- (1) No member shall fish at any time within 50 yards of a Band, Commission or Minnesota Department of Natural Resources assessment net or its leads.
- (2) No member shall fail to comply with the closures and other restrictions with respect to fish refuges and fish management experimental bodies of water established pursuant to Section 3.27 [Wild Animal Refuges Established].

9.21 Bait Dealers Regulated.

- (1) No member shall set, use or operate any net or other device for taking, catching or killing minnows except as provided by this section.
- (2) No member shall take minnows, except under special permit issued by the Commissioner, in the following waters [list lakes/streams in ceded territory from MR 6262.0400].
- (3) Any member may take or possess less than 600 minnows by the use of any net authorized by Section 9.07 [Dip Nets, Fyke Nets and Seines] without a permit provided that while netting for minnows:
 - (a) No member shall remove or destroy vegetation, logs or habitat features;
 - (b) No member shall handle, transport or hold minnows except in a manner which will reasonably ensure the minnows will be kept alive and healthy; and
 - (c) No member shall fail to promptly return unharmed to the water all minnows not kept and all game fish caught by a net.
- (4) No member shall take or possess more than 600 minnows at any time unless the member possesses a permit issued pursuant to subs. (4).
- (5) The Department of Natural Resources may issue a permit to a member authorizing the taking or possession at any time of more than 600 minnows on the following terms and conditions:
 - (a) A permit shall include the member's name, address and Band identification number;
 - (b) A permit shall specify the waters where the permit is valid and the number of nets or other devices which may be utilized at any time;

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- (c) A permit shall describe the nets or other devices authorized;
- (d) A permit shall require that minnow traps be identified in a permanent and legible manner and display the permittee's name and address. The required information must be displayed on a waterproof tag securely attached to the trap or be branded or stamped into a permanent portion of the trap. On leech traps, the required information may also be painted on the trap with oil base paint or indelible ink. Identification on nonsubmerged traps must be unobscured and located above the water surface;
- (e) A permit shall provide that a minnow trap, string of minnow traps, hoop net, or trap net, including the wings or leads, may not extend across more than one-half the width of any stream, nor be set within 50 feet in any direction of any portion of another person's minnow trap, hoop net or trap net, provided that an individual minnow trap may be placed within not less than 20 feet in any direction of any portion of another such trap, and individual submerged traps may be set up to four traps at one site, side by side, within 12 inches of one another;
- (f) A permit shall provide that minnow traps must be lifted and emptied of minnows and other fish as frequently as necessary to prevent the loss of minnows or other fish, provided that under no circumstances may minnow traps be emptied less frequently than once every 72 hours between April 1 and October 31 and once every seven days between November 1 and March 31. All traps must be removed from the water and shoreline immediately upon ceasing trapping operations;
- (g) A permit may be valid for no more than 12 months from the date of issuance;
- (h) A permit shall require the member to transport, handle and hold minnows in a manner which will reasonably ensure the minnows will be kept alive and healthy;
- (i) A permit shall require all minnows not kept and all game fish caught by the nets or other devices to be promptly returned unharmed to the water;
- (j) A permit shall prohibit the removal or destruction of vegetation, logs and other habitat

features; and

- (k) The Department of Natural Resources may impose such other terms and conditions as it deems appropriate or necessary, including biological monitoring requirements appropriate to the level of harvest activity on any body of water.
- (6) No member shall take or attempt to take minnows contrary to the terms and conditions of any permit issued under subs. (4).
- (7) Nothing in this ordinance shall be construed to prohibit a member from selling to any person minnows lawfully taken pursuant to this section, provided that the member shall comply with Section

3.28 [Records of Commercial Transaction], and provided further that vehicles used for transporting

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minnows for sale shall display an identification number issued by the Department of Natural Resources on the driver's door.

9.22 Commercial Harvest of Game Fish.

(1) (a) The provisions of this section and Section 9.23 shall not take effect until such time as the governing body of the Band specifically declares them to be effective by an enabling resolution.

(b) No member shall engage in the commercial harvest of any game fish prior to the effective date as declared by the governing body of the Band pursuant to Subs. (1)(a).

- (2) At such time as the provisions of this section are declared effective pursuant to subs. (1)(a), no member shall engage in the commercial harvest of any game fish, except in accordance with the provisions of Section 9.23 and in accordance with the terms and conditions of the Band's enabling resolution.
- (3) Nothing in this ordinance shall be construed to prohibit any member from engaging in the commercial harvest of any fish which is not a game fish provided such harvest is consistent with all other provisions of this ordinance.

9.23 Commercial Harvest of Game Fish Regulated.

- (1) The purpose of this section is to establish the regulations governing the commercial harvest of game fish.
- (2) No member shall engage in the commercial harvest of game fish without a permit authorizing such commercial harvest and tagging all fish to be sold commercially in accordance with subs. (3) and (4).
- (3) The Department of Natural Resources may issue permits for the commercial harvest of game fish, which shall incorporate all provisions of Chapter 9, including the provisions of Sections 9.06 [Spearing Regulations], 9.07 [Dip Nets, Fyke nets and Seines Regulated], and 9.08 [Gillnets Regulated], provided that:
 - (a) the Department shall not permit the use of gillnets in any lakes other than Mille Lacs Lake from March 2 to May 31 for commercial harvests; and
 - (b) the Department may authorize the use of gillnets for commercial harvests in Mille Lacs

Lake only with the following maximum length, depth and bar sizes:

DATES	MAXIMUM ALLOWABLE LENGTH	MAXIMUM DEPTH	MAXIMUM BAR SIZE
March 2 to May 31	100 feet	4 feet	1.75 inches
June 1 to March 1	300 feet	6 feet	1.75 inches

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(4) The Department of Natural Resources shall issue sequentially numbered tags after the fish are landed for all game fish to be sold commercially on the following conditions:

- (a) Each whole game fish sold must be tagged prior to being sold;
- (b) If filleted prior to sale, all fillets from a game fish must be tagged together or otherwise packaged together with one tag prior to sale. The tags shall be of the locking variety and designed so that when packaged together the tag cannot be used again.

History: Section 9.23 was amended in November 2002.

9.24 Buying and Selling Game Fish. Except for subsistence uses as defined in Section 2.01(18), no member shall buy or sell game fish taken from waters in the Minnesota Ceded Territory unless such fish were taken in a commercial harvest permitted under Section 9.23(3). A member engaged in a business providing services to a member taking fish may not prepare dressed game fish for shipment without a fish packer's license issued by the Department of Natural Resources. The fish packer must maintain a permanent record of:

- (1) the name, address and license number of the shipper;
- (2) the name and address of the consignee; and
- (3) the number of each species and net weight of fish in the shipment.

The license and records of the fish packer must be made available to a person authorized to enforce the provisions of this ordinance upon request.

9.25 [Open.]

9.26 Authorization for Closure. The Commissioner, or his or her designee, shall close any body of water to fishing for any species by any harvest method which is subject to a treaty quota when such treaty quota has been taken.

9.27 [Open.]

9.28 [Open.]

9.29 Special Sturgeon Regulations.

- (1) The regulations set forth in this Section shall supersede the season and size restrictions and the bag limits provided by Section 9.05(4)(d).
- (2) On lakes with adequate population estimates for sturgeon which are subject to a quota management system on fish species referenced in Section 9.05(5), the Department of Natural

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Resources may issue permits authorizing harvest of sturgeon by Band members, provided total harvest by all Bands on such lakes is limited to a quota established after consultation with the State Department of Natural Resources and in accordance with the provisions of the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding fisheries management, and a bag limit is incorporated in the permit.

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CHAPTER 10 - MIGRATORY BIRD HARVESTING REGULATIONS

10.01 Definitions. For the purposes of this chapter, the following terms shall be construed as follows:

- (1) **"Bag Limits"** mean:
 - (a) **"Aggregate bag limit"** means a condition of taking in which two or more usually similar species may be bagged (reduced to possession) by the member in predetermined or undetermined quantities to satisfy a maximum take limit.
 - (b) **"Daily bag limit"** means the maximum number of migratory birds of a single species or combination (aggregate) of species permitted to be taken by one member in any one day during the open season.
 - (c) **"Aggregate daily bag limit"** means the maximum number of migratory birds permitted to be taken by one member in any one day during the open season when such member hunts for more than one species for which a combined daily bag limit is prescribed.
 - (d) **"Possession limit"** means the maximum number of migratory birds of a single species or a combination of species permitted to be possessed by any one member when lawfully taken in the ceded territory.
- (2) **"Migratory Bird"** means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in 50 CFR Section 10.13, or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or in part of any part, nest or egg thereof.
- (3) **"Migratory Game Birds"** means coots, gallinules, sora and Virginia rails, American woodcock, common snipe, and migratory waterfowl.
- (4) **"Migratory Bird Preservation Facility"** means:
 - (a) Any person who, at his residence or place of business and for hire or other consideration; or
 - (b) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or
 - (c) Any hunting club which, in the normal course of operations receives, possesses, or has

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in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage, or shipment.

- (5) **"Personal abode"** means a member's principal or ordinary home or dwelling place, as distinguished from one's temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent or trailer house used as a hunting club, or any hotel, motel, or rooming house used during a hunting, pleasure or business trip.
- (6) **"Take"** means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture or collect.
- (7) **"Waterfowl"** means any migratory bird of the family Anatidae, including ducks, geese, swans, brant, and mergansers.

10.02 Closed Season.

- (1) A closed season is hereby established for the hunting of migratory birds except for the open seasons specified in Section 10.03.
- (2) Except as otherwise expressly provided by this ordinance, no member shall take any migratory bird during the closed season for that animal.

10.03 Seasons and Annual Harvest Regulations.

- (1) Upon publication in the Federal Register of the U.S. Fish and Wildlife Service Final Rule establishing federal regulations in response to the Band's proposal pursuant to the Service's Interim Guidelines described in the June 4, 1985, Federal Register (50 FR 23467), all such regulations as to season, daily bag and possession limits, and other conditions, shall be and hereby are incorporated into this ordinance, as if fully set forth in their entirety herein, and shall constitute Band regulations governing member migratory bird hunting for the seasons so established.
- (2) No member shall take or possess migratory birds or otherwise engage in any activity contrary to the federal regulations incorporated into this ordinance pursuant to this section on a season-by-season basis.
- (3) Any violation of such annual federal migratory bird regulations incorporated herein shall be deemed a violation of this ordinance, and shall be subject to the jurisdiction of the Band court pursuant to the provisions of this ordinance.

10.04 Daily Bag Limits and Possession Limits.

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- (1) No member shall take any migratory bird in any one day in excess of the daily bag limit for that species or in excess of the aggregate daily bag limit, whichever applies, as established by this chapter.
- (2) No member shall possess migratory birds taken in excess of the possession limits for that species established by this chapter.
- (3) When a daily bag limit or aggregate daily bag limit is established in terms of "points", the daily bag limit or aggregate daily bag limit, whichever applies, is reached when the point value established by this chapter of the last migratory bird taken during that day reaches or exceeds the maximum number of points allowed for that day.

10.05 Methods.

- (1) Unless expressly modified by a U.S. Fish and Wildlife Service Final Rule incorporated into this ordinance pursuant to Section 10.03(1), migratory birds for which open seasons are prescribed may be taken by any method except those prohibited in this section.
- (2) No member shall take migratory birds:
 - (a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;
 - (b) With a shotgun of any description capable of holding more than five shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;
 - (c) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;
 - (d) From or by any means, aid, or use of any motor vehicle (not including a motorboat or sailboat), motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land

conveyance;

(e) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased: Provided, that a craft under power may be used to

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retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power;

(f) By the use or aid of live birds as decoys (among other things, it shall be a violation of this section for any member to take migratory waterfowl in an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl);

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;

(h) By the aid of baiting, or on or over any baited area, where the member knows or reasonably should know that the area is or has been baited.

(i) Nothing in this subsection prohibits:

1. The taking of any migratory bird on or over the following lands or areas that are not otherwise baited areas:

a. Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice;

b. From a blind or other place of concealment camouflaged with natural vegetation;

c. From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing, or scattering of grain or feed; or

d. Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

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2. The taking of any migratory bird, except waterfowl and coots, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation.

(ii) For the purposes of this subsection, the following terms mean:

1 "Baiting"– the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory birds to, on, or over any areas where hunters are attempting to take them.

2 "Baited area"– any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for migratory birds to, on, or over areas where hunters are attempting to take them. Any such area shall be considered a "baited area" for ten days following the complete removal of all such salt, grain, or other feed.

3 "Manipulation"– the alteration of natural vegetation or agricultural crops by activities that include but are not limited to mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, or herbicide treatments. "Manipulation" does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.

4. "Natural vegetation"– any non-agricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules. "Natural vegetation" does not include planted millet.

However, planted millet that grows on its own in subsequent years after the year of planting is considered "natural vegetation."

4 "Normal agricultural operation"– a normal agricultural planting, harvesting, post-harvest manipulation, or agricultural practice, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

5 "Normal agricultural planting, harvesting, or post-harvest

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manipulation"– a planting or harvesting undertaken for the purpose of producing and gathering a crop, or manipulation after such harvest and removal of grain, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

7. "Normal soil stabilization practice"– a planting for agricultural soil erosion control or post-mining land reclamation conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

(i) While possessing shotshells loaded with shot other than steel shot or such shot approved as non-toxic by the Director of the U.S. Fish and Wildlife Service, provided that this restriction applies only to the taking of ducks, geese (including brant), swans and coots and any species that make up aggregate bag limits during concurrent seasons with the former;

(j) With shot larger than size T; or

(k) By the use or aid of any motor driven land, water, or air conveyance, or any sailboat, used for the purpose of or resulting in the concentrating, stirring up, driving, or rallying any migratory bird.

History: Section 10.05 was amended in December 2001.

10.06 Shooting Hours. No member shall take migratory birds except during the lawful hunting hours established by the U.S. Fish and Wildlife Service Final Rule incorporated into this ordinance pursuant to Section 10.03(1).

10.07 Hunting on Certain Public Lands Prohibited. No member shall hunt migratory birds on any of the following lands except as noted.

- (1) Designated public campgrounds, public beaches, public picnic areas, and public water access sites.
- (2) Public lands within incorporated areas except those lands which are designated for migratory bird hunting.
- (3) All parks identified by Commissioner's order under Section 3.29(1) except:

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- (a) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or
- (b) parks or portions thereof in which hunting is allowed under State law, pursuant to a permit issued by the Department of Natural Resources in accordance with the agreement between the Bands and the State regarding special hunts in parks.

(4) All wildlife refuges, scientific and natural areas, and other closed or restricted areas established pursuant to Section 3.29, except as migratory bird hunting is allowed by the Commissioner in those areas.

10.08 Hunting on Certain Private Lands Prohibited. As provided in Sec. 3.22(1), no member shall hunt migratory birds on any privately owned land unless the lands are open to the general public for hunting by operation of state law.

10.09 Wanton Waste of Migratory Birds. No member shall kill or cripple any migratory bird pursuant to this chapter without making a reasonable effort to retrieve the bird, and retain it in his or her actual custody, at the place where taken or between that place and any of the following places:

- (1) The member's automobile or principle means of land transportation;
- (2) The member's personal abode or temporary or transient place of lodging;
- (3) A migratory bird preservation facility as defined by Section 10.01(2) of this ordinance;
- (4) A post office; or
- (5) A common carrier facility.

10.10 Decoys. No member shall take any migratory bird with decoys which are:

- (1) Placed beyond 200 feet from the location in which the member is located;
- (2) Placed in the water prior to one hour before opening of shooting hours; or

- (3) Left in the water more than 20 minutes after the close of shooting hours.

10.11 Structures. No member shall hunt migratory birds from any publicly owned pier, dam, dock, breakwater, or similar man-made structure where the prohibition of such hunting is clearly posted.

10.12 Duck Blinds. No member shall establish a duck blind on public waters or public land prior to one (1) hour before the migratory bird season or leave it established beyond seven (7) days after the close of the season. No member shall leave any waterfowl hunting blind in open public waters after dark.

10.13 Possession Regulated.

- (1) Prohibited if taken in violation of sections 10.05-10.12. No member shall at any time, by any means, or in any manner, possess or have in custody any migratory bird or part thereof, taken in violation of any portion of Sections 10.05-10.12 of this ordinance.
- (2) During closed season. No member shall possess any freshly killed migratory bird taken in the Minnesota Ceded Territory and during the closed season.
- (3) Possession limit. No member shall possess more migratory birds taken in the Minnesota Ceded Territory than the possession limit or the aggregate possession limit, whichever applies. This section applies only to transportation. Possession limits for the purposes of this subsection do not include birds which are cleaned, dressed, and at the member's primary residence.
- (4) Opening day of a season. No member on the opening day of the season shall possess any migratory bird freshly killed off of the reservation in excess of the daily bag limit, or aggregate daily bag limit, whichever applies.
- (5) Field possession limit. No member shall possess, have in custody, or transport more than the daily bag limit, or aggregate daily bag limit, whichever applies, of migratory birds, tagged or not tagged, at or between the place where taken and any of the following places:
 - (a) The member's automobile or principle means of land transportation;
 - (b) The member's personal abode or temporary or transient place of lodging;
 - (c) A migratory bird preservation facility as defined in Section 10.01(3) of this ordinance;
 - (d) A post office; or
 - (e) A common carrier facility.
- (6) Tagging requirements. No member shall put or leave any migratory bird at any place (other than his or her personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose

of having taxidermy services performed, unless such bird has a tag attached, signed by the

member, stating his or her address, the total number and species of birds, and the date such birds were killed. Migratory birds being transported in any vehicle as the personal baggage of the processor shall not be considered as being in storage or temporary storage.

- (7) Custody of birds of another. No member shall receive or have in custody any migratory bird belonging to another person unless such bird has been tagged as required by subs. (6).
- (8) Possession of live birds. Every migratory bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become part of the daily bag limit. No member shall at any time, or by any means, possess or transport live migratory game birds taken pursuant to this ordinance.
- (9) Termination of possession. Subject to all other requirements of this chapter, the possession of any migratory bird taken by any member shall be deemed to have ceased when such bird has been delivered by him or her to another person as a gift; or have been delivered by him or her to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the member.
- (10) Gift of migratory bird. No member shall receive, possess, or give to another, any freshly killed migratory birds as a gift, except at the personal abode of the donor or donee, unless such birds have a tag attached, signed by the member who took the birds, stating such member's address, the total number and species of birds and the date such birds were taken.

10.14 Transportation Regulated.

- (1) Prohibited if taken in violation of sections 10.05-10.12. No member shall at any time, by any means, or in any manner, transport any migratory bird of part thereof, taken in violation of any provision of Section 10.05-10.12 of this ordinance.
- (2) Transportation of birds of another. No member shall transport any migratory bird belonging to another person unless such bird is tagged as required by Section 10.13(6) of this ordinance.
- (3) Species identification requirement. No member shall transport any migratory bird unless the head and one fully feathered wing remains attached to each bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or at a migratory bird preservation facility as defined in Section 10.01(3).
- (4) Marking package or container. No member shall transport by the Postal Service or a common carrier migratory birds unless the package or container in which such birds are transported has the

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name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

10.15 Exportation Regulated.

- (1) Prohibited if taken in violation of sections 10.05-10.12. No member shall at any time, by any means, or in any manner, export or cause to be exported from the United States, any migratory

bird or part thereof, taken in violation of any provision of Sections 10.05-10.12 of this ordinance.

(2) Species identification requirement. No member shall export from the United States migratory birds unless the head and one fully feathered wing remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

(3) Marking package or container. No member shall export migratory birds via the Postal Service or common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

10.16 Permit Required. No member shall hunt migratory birds pursuant to this ordinance without possessing a valid migratory bird hunting permit issued by the Band.

10.17 Closed Areas. No member shall fail to comply with the closures and other restrictions with respect to wildlife refuges and closed areas as established pursuant to Section 3.29 of this ordinance.

10.18 Authorization for Emergency Closure. The Commissioner or his or her designee shall close or temporarily suspend any season in any particular locale to migratory bird hunting by Band members upon a determination that a continuation of the season would impact significantly the migratory bird resource. In the case of a temporary suspension, notice shall be provided to members of the date and time when the season may be resumed.

10.19 Enforcement by U.S. Fish and Wildlife Service Personnel. Any Memorandum of Agreement or other such document by which the Band and the U.S. Fish and Wildlife Service establish the conditions upon which the Service's personnel may enforce the provisions of this ordinance is hereby incorporated into this ordinance as if set forth in its entirety herein.

10.20 Assistance by Non-Members. No person who is not a member shall assist a member in the hunting of migratory birds pursuant to this ordinance except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members].

10.21 Sale of Migratory Bird Parts Regulated.

(1) No member shall sell the meat of any migratory bird taken in the Minnesota Ceded Territory.

(2) A member may use the feathers of migratory birds lawfully harvested under this ordinance for subsistence uses, including the making and selling of handicraft articles as defined in Section 2.01(18) subject to the following [permit requirements to trace all feathers to be developed].

(3) Nothing in this ordinance shall be construed to prohibit a member from selling the feathers of migratory waterfowl (ducks, geese, brant and swans) lawfully harvested pursuant to this ordinance for the making of fishing flies, bed pillows, and mattresses, and for similar commercial

uses except that:

- (a) No member shall purchase or sell, or offer to purchase or sell, for millinery or ornamental use the feathers of migratory birds taken in the Minnesota Ceded Territory (except as provided in subs. (2)); and
- (b) No member shall purchase or sell, or offer to purchase or sell, mounted specimens of migratory birds taken in the Minnesota Ceded Territory.

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CHAPTER 11 - AMPHIBIANS, TURTLES, MUSSELS AND CRAYFISH

11.01 Purpose. The purpose of this chapter is to regulate the harvest of amphibians, turtles, mussels and crayfish.

11.02 Amphibians.

- (1) **Season and Hours.** Frogs may be taken only between May 16 and March 31, inclusive, and between sunrise and sunset, except as otherwise permitted by the Commissioner.
- (2) **Species and Size Limits.** Only leopard frogs (*Rana pipiens*) and bull frogs (*Rana catesbiana*) more than six inches long may be taken or possessed for purposes other than bait. The length of the frog is measured from the tip of the nose to the tip of the hind toes, with the legs fully extended.
- (3) **Methods.**
 - (a) No member shall use cloth screens or similar devices to take frogs.
 - (b) No member shall use artificial lights to take frogs unless in possession of a permit issued by the Department of Natural Resources authorizing the use of artificial lights to take frogs in designated waters.
- (4) **Taking, Importing, Transporting, Possessing, Buying or Selling Frogs for Purposes Other Than Bait.**
 - (a) No member shall take, transport, possess, buy or sell frogs for purposes other than bait without a permit issued by the Department of Natural Resources. Such a permit shall be valid for no more than one year without renewal.
 - (b) No member shall import live frogs into the State of Minnesota for purposes other than bait without a permit issued by the Commissioner.
 - (c) All permittees who take or possess frogs for purposes other than bait must keep a record book that includes the number or weight of each species of frog acquired by taking or purchase and sold, the name and address of each purchaser and seller, and the date of each transaction. These records must be kept current within 48 hours of a transaction.
 - (d) All permittees who have taken frogs for purposes other than bait must report activities of the previous permit year, on forms provided by the Department of Natural Resources,

before a permit is renewed.

11.03 Turtles.

- (1) **Snapping Turtle Limits.** No member shall possess more than three snapping turtles of the species *Chelydra serpentina* without a turtle seller's permit issued under section 11.03(3). No member shall take snapping turtles of a size less than ten inches wide including curvature, measured from side to side across the shell at midpoint.
- (2) **Methods.**
 - (a) Except as allowed in subsection (b), no member shall take turtles by use of explosives, drugs, poisons, lime, other harmful substances, firearms, turtle hooks or traps, or nets other than nets authorized for use in harvesting fish in non-commercial fisheries.
 - (b) A member possessing a turtle seller's permit issued under section 11.03(3) may take turtles by means of turtle traps or hooks and other authorized commercial fishing gear.
 - (i) Flexible webbing turtle traps must be of mesh size not less than 3-1/2 inches bar measure or seven inches stretch measure.
 - (ii) Wire turtle traps must be of mesh size not less than 3-1/2 inches bar measure and must have at least four inches on a side and one of the same dimension near the bottom in each of the side panels.
 - (iii) A turtle trap must be set in water shallow enough to place the top no deeper than one inch below the water surface. Each trap must be checked and serviced at intervals not exceeding 48 hours.
 - (iv) When in use, each turtle trap must have affixed on it a tag of permanent material visible from above, legibly bearing the name, address, and permit number of the operator. This information must be recorded in an indelible manner on the tag. The tag must be of dimensions not less than 2-1/2 inches in length by five-eighths inch in width.
 - (c) No member shall use artificial lights to take turtles unless in possession of a permit issued by the Department of Natural Resources authorizing the use of artificial lights to take turtles in designated waters.
- (3) **Sales.** Except for subsistence uses, no member shall take, possess, transport or purchase turtles for sale without a turtle seller's permit issued by the Department of Natural Resources. A

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turtle seller's license is not required to buy turtles for retail sale to consumers:

- (a) at a location licensed by the state department of agriculture or health for sale or preparation of food;
- (b) of a member licensed by the state department of agriculture or health for sale or preparation of food; or
- (c) of a member buying turtles at a retail outlet.

(4) Records and Reports.

- (a) Reports must be submitted, on forms provided by the Department of Natural Resources, by a holder of a turtle seller's permit at the time of permit renewal or March 1, whichever comes first. The forms must record the numbers and pounds of turtles taken, species of turtles taken, and other information as specified.

- (b) A permittee who buys turtles for resale or for processing and resale must keep a correct and complete book record of all transactions and activities covered in the license.

11.04 Mussels.

- (1) **Season and Hours.** Mussels may be taken only between May 16 and the last day of February, inclusive, and between sunrise and sunset. The Commissioner may restrict the open season for taking mussels for commercial purposes.
- (2) **Prohibited Species.** No member shall harvest or intentionally disturb the Higgins' eye (*Lampsilis higginsii*), elephant ear (*Elliptio crassidens*), ebony shell (*Fusconaia ebena*), winged mapleleaf (*Quadrula fragosa*), fat pocketbook (*Proptera capax*) mussels, or any mussel that is an endangered or threatened species. If these species are located within the harvest site, all harvest operations must immediately stop and the harvester must notify the Department of Natural Resources within 24 hours.
- (3) **Methods and Limits.** Mussels may be taken by hand-picking only with or without aid of breathing apparatus. No member shall take and possess more than 24 live whole or 48 shell halves of freshwater mussels at any time, and no member shall sell mussels except for subsistence uses, unless the member is in possession of a commercial mussel harvesting permit issued under section 11.04(4).
- (4) **Commercial Harvest Permits.**

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- (a) The Commissioner may issue permits to harvest mussels commercially, in areas determined after consultation with the Minnesota Department of Natural Resources and in accordance with provisions in the final decree in Mille Lacs v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding mussel management. Such a permit shall be issued only upon submission of a complete written application containing such information as the Commissioner deems appropriate and shall be valid for no more than one year without renewal. The Commissioner may terminate a permit to harvest mussels pursuant to Section 3.33 [Emergency Closures] to protect aquatic resources.
- (b) Only three ridge (*Amblema plicata*) mussels may be harvested under a commercial harvest permit. Additional species may be requested for harvest from specific sites by special permit. Three ridge mussels may lawfully be harvested, as live whole mussels or shell halves, provided that they cannot pass through a 2-3/4 inch diameter hole. A member must return undersized three ridge mussels or unlawful mussel shells, live or dead, to the water immediately.
- (c) Harvest sites must be identified in the application and permit by legal description or other defining terms sufficient to accurately locate the area. The taking of mussels by a permittee or crew member from a place outside the permitted harvest site is prohibited.
- (d) The permittee must inform the Commissioner 24 hours in advance of any intended mussel harvest operations. Changes in location or dates will require an additional notification.
- (e) A mussel harvesting crew is limited to four persons, including the permittee. Helpers' names must be listed on the permit and must be eligible to exercise hunting, fishing and gathering rights under the 1837 treaty. The permittee must be in attendance at all mussel harvest operations.
- (f) No member shall harvest mussels within 1,000 feet downstream of a dam.

(5) Records, Reports and Inspections.

(a) Notwithstanding the requirements of Section 3.28 a permittee must keep records of each mussel sales transaction. The records must be verifiable with supporting sales slips and include:

(i) pounds of mussels sold;

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(ii) name and address of the buyer; and

(iii) date of transaction.

Records must be kept current within 48 hours of each transaction. Failure to keep complete and current records may result in immediate revocation of the permit and may render the permittee ineligible for permits for one year. All records must be maintained and available for inspection, at the permittee's address, for three years.

(b) Notwithstanding the requirements of Section 3.28 a permittee must submit reports monthly while the permit is valid on forms provided by the Commissioner. Reports must be submitted by the 15th of each month even if no harvest activity took place. All information requested on the report must be provided. Failure to submit information requested on the report may result in revocation of the existing permit and may render the permittee ineligible for permits for one year.

(c) Records required in this section, business and operation premises, and boats, vehicles, and gear used in the mussel harvesting operations may be inspected at all reasonable times by wardens of the Bands or the Commission.

(6) Special Restrictions.

(a) Meats resulting from the processing of live whole mussels may not be returned to the water or deposited on a shoreline or adjacent land. The meat of mussels lawfully obtained may be used as bait.

(b) Live mussels may not be transferred within or between bodies of water, except under permit issued by the Commissioner.

11.05 Crayfish.

(1) **Seasons and Size Limits.** Crayfish may be taken only from April 1 through November 30, inclusive. Crayfish less than one inch in length from tip of rostrum to tip of tail must be returned unharmed to the water.

(2) **Methods.**

(a) Crayfish may be harvested with gear allowed for rough fish and minnows in

addition to gear specified in this part. Crayfish traps or harvesting devices must be identified in a permanent and legible manner with a plastic or metal tag not smaller than one inch by three

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inches bearing the user's name and address.

- (b) The mesh size for crayfish traps may not be less than one-half inch, stretch measure.
- (c) Floats used to mark traps may not be larger than four inches square or four inches in diameter.
- (d) Rough fish parts may be used within a crayfish trap as bait.

- (3) **Sale of Crayfish.** All crayfish species may be harvested and crayfish may be cultured for sale for food and processed bait. Crayfish may not be sold for live bait or aquarium use.
- (4) **Tending Crayfish Traps.** Crayfish traps may be lifted from one hour before sunrise until one hour after sunset. Crayfish traps must be lifted at least once in each 24 hour period weather permitting. All trapped fish not lawfully harvested under this ordinance must be returned to the water.
- (5) **Disposal of Crayfish.** Dead crayfish or the shells or meats of crayfish may not be returned to the water or deposited on any shoreline or adjacent area.
- (6) **Transportation and Stocking of Crayfish.** The transportation of any crayfish from one body of water to another within the state is prohibited, except by written permission from the Commissioner.
- (7) **Importation of Crayfish Prohibited.** The placement in waters of the state of any crayfish imported from outside the state is prohibited, except under permit by the Commissioner.
- (8) **Bag and Possession Limit.**
 - (a) No member shall take or possess more than 25 pounds of live, whole freshwater crayfish at any time, unless the member is in possession of a commercial crayfish harvesting permit issued under Section 11.05(9).
 - (b) No member shall sell crayfish except for subsistence uses unless the member is in possession of a commercial crayfish harvesting permit issued under Section 11.05(9).
- (9) **Commercial Harvest Permits.**
 - (a) The Commissioner may issue permits to harvest crayfish commercially. Such a permit shall be issued only upon submission of a complete written application containing such

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information as the Commissioner deems appropriate, and shall be valid for one season or such shorter period of time as the Commissioner deems appropriate.

- (b) Only members listed on the permit may assist the permit holder in any phase of the crayfish harvesting operations.
- (c) The Commissioner may revoke any permit upon determination that revocation is

necessary for protection of natural resources.

- (d) Any variance from permit conditions requires a written amendment which must be attached to and become part of the permit.
- (e) The importation of live crayfish or crayfish eggs into the state is prohibited except by written permit from the Commissioner. Permits to import live crayfish for processing may only be issued provided no live crayfish are allowed to exit the processing facility.
- (f) Permit holders must keep records of all crayfish sales transactions. Records must be verifiable with supporting sales slips and include the number or weight of all species of crayfish acquired by taking or purchase and sold, name and address of buyer, and date of each transaction. Records must be kept current within 48 hours. Failure to keep complete and current records may result in immediate revocation of the permit and may render the permit holder ineligible for future permits.
- (g) Crayfish lawfully harvested may be bought, sold, and transported for food purposes and as processed bait only, except as otherwise provided in this Section 11.05. Crayfish must be kept separated from live fish when being transported within the state.
- (h) Crayfish lawfully possessed may be exported for any purpose.
- (i) The permit holder must inform the Commissioner at least 24 hours in advance of the start of harvest operations for each water body. Harvest sites will be identified by name and legal description or other defining terms sufficient to accurately locate the site.
- (j) The permit holder must be in personal attendance at harvest operations and is responsible for all harvest activities. All members of the crew must be listed on the permit.
- (k) The Commissioner may issue a permit to rear or hold crayfish of the species *Orconectes virilis* and *Orconectes immunis* for any waters, including waters that are not isolated from other waters.

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CHAPTER 12 - WILD PLANT HARVESTING REGULATIONS

12.01 Purpose. The purpose of this chapter is to regulate the harvest of wild plants, or any parts thereof, which are not regulated pursuant to Chapter 5 [Wild Rice Harvesting Regulations].

12.02 Definitions. For the purposes of this chapter, the following terms shall be construed to apply as follows:

- (1) "**Fuel wood**" shall mean trees, whether standing or down, that will be used for personal use to produce heat.
- (2) "**Gathering**" means cutting, rooting up, severing, injuring, destroying, removing, or carrying away any wild plant or part thereof.
- (3) "**Ginseng**" means the roots, seeds or other parts of wild American ginseng (*Panax quinquefolium* or *Panax quinquefolius*).
- (4) "**Public Landowner**" means any owner or other entity responsible for the management of any public land.
- (5) "**Public lands**" means those lands, including the beds of any streams and flowages, located within the ceded territory owned by the State of Minnesota or any of its political subdivisions

or Departments.

(6) "**Wild plant**" means any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem, and includes without limitation endangered or threatened plant species, as defined in Section 2.01(7) of this ordinance, trees and tree products (such as timber, firewood, fuelwood bark, sap and boughs), and ginseng, but excludes for the purposes of this chapter wild rice.

(7) [**Open.**]

(8) "**Timber**" shall mean trees that will produce products of value, whether standing or down, and includes logs, posts, poles, bolts, pulpwood, cordwood and lumber, but shall not include fuelwood, bark, sap or boughs.

12.03 Gathering on Certain Public Lands Prohibited. No member shall engage in a particular wild plant gathering activity in a particular area on public lands where the public landowner has notified the Commissioner that:

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(1) the particular activity is contrary to the area's general plant management plan or system;
or

(2) the particular area is closed to gathering under the area's general plant management plan or system.

12.04 Gathering on Certain Private Lands Prohibited. No member shall gather any wild plant on private lands except those lands which are open to the general public for gathering by operation of state law.

12.05 Wild Plant Harvesting Permits.

(1) Generally.

(a) Except as provided in subs. (4) [Subsistence Uses], a permit issued by the Department of Natural Resources shall be required for the gathering of any wild plant, or any part, fruit, seed or berry thereof.

(b) The Department of Natural Resources is authorized to issue permits which authorize the gathering of wild plants to a member or group of members in accordance with the provisions of this subsection.

(c) A gathering permit issued pursuant to this subsection shall:

(i) identify the permittee or permittees, including the name, address and Band identification number of all members authorized to gather wild plants by the permit;

(ii) identify the amount and general location of the plants, or parts thereof, to be gathered; and

(iii) require that all members authorized by the permit must possess an official copy of the permit while engaged in the gathering activity.

(d) A gathering permit issued pursuant to this subsection may:

(i) establish limits on the quantity of the plants which may be gathered;

- (ii) define the specific area or areas where the gathering may occur;
- (iii) define or limit the methods which may be employed to gather the plants;
and

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(iv) establish such other conditions or requirements deemed necessary or appropriate by the Department of Natural Resources.

- (e) The Department of Natural Resources shall consult the public landowner of the area where the gathering will take place prior to the issuance of a permit under this section.
- (f) No member shall be authorized to engage in the business of harvesting nuisance plants under the authority of this Code.

(2) Ginseng Gathering Permits.

- (a) No ginseng gathering permit shall be issued and no member shall gather ginseng from January 1 through August 31.
- (b) A member may not sell, purchase, or possess any green roots of wild ginseng, except during the open season.
- (c) A member may not harvest, dig, or disturb any wild ginseng plant unless the plant has at least three prongs (leaves) with five leaflets each.
- (d) Immediately after digging or removing any wild ginseng plant, the digger must remove all of the seeds from the plant's berries and plant them in the area where the plant was dug.

Seeds must be planted by removing surface litter, planting each seed at a depth of one-half inch in the underlying soil, and replacing the surface litter over the planting site.

(3) Gathering Permits for Trees and Tree Products.

- (a) No permit shall be issued for and no member shall engage in the commercial harvest of any species of timber except as permitted by state law.
- (b) Except as provided in subs. (3)(a), and subject to the provisions of subs. (3)(c), the Department of Natural Resources may issue a permit to a member or group of members for the gathering of trees or tree products. Any such permit shall be issued in accordance with sections 12.05(1)(c) and (d).
- (c) Except for a permit to gather bark, the Department of Natural Resources shall not issue a permit for the gathering of trees or tree products until the Department receives the written consent of the public landowner of the lands covered by the permit.

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(4) Subsistence Uses. Except as required by subs. (2) and subsection (3), no permit shall be required for a member to gather wild plants for subsistence uses.

12.06 Restrictions on Wild Plant Gathering -- Public Safety. No member engaged in the gathering of wild plants pursuant to this chapter shall impair or obstruct developed recreational trails or special use areas and any wild plant subject to the gathering which may impede or impair the use of those trails or areas shall be removed immediately.

12.07 Sale of Wild Plants Authorized.

- (1) Except as provided in subsection 12.05(3)(a), nothing contained in this ordinance shall be construed to prohibit members from selling any wild plant, or any part thereof, lawfully harvested pursuant to this chapter.
- (2) Except with the respect to the sale of ginseng, the provisions of Section 3.28 [Records of Commercial Transactions Required] shall not apply to the sale of any wild plant, or part thereof, lawfully harvested pursuant to this chapter.
- (3) In addition to such other information that is required by Section 3.28, no member shall fail to specify the county of ginseng harvest on the record of a commercial transaction.

12.08 Assistance by Non-Band Member. No person who is not a member shall assist a member in the gathering of any wild plant, or part thereof, pursuant to this chapter except as provided in Section 3.32 [Permissible Conduct/Assistance by Non-Members].

**1842 MICHIGAN CEDED TERRITORY
OFF-RESERVATION TREATY HUNTING AND TRAPPING ORDINANCE**

1. **Activities Covered.** Without prejudice to any future rights, claims or defenses with respect to these treaty rights, this ordinance shall apply to the off-reservation tribal hunting and trapping rights reserved in the Treaty of 1842.
2. **Where it Applies.** This ordinance shall govern the exercise of treaty-reserved off-reservation hunting and trapping rights applicable to all of the lands and waters located in the State of Michigan, ceded by the tribes to the United States of America in the Treaty of 1842, 7 Stat. 591.
3. **Purpose.** It is the purpose of this ordinance to:
 - a. Provide an orderly and effective system for tribal control and regulation of treaty-reserved hunting and trapping activities applicable to the 1842 Michigan Ceded Territory;
 - b. Supplement the Tribal *Voigt* [*Lac Courte Oreilles v. State of Wisconsin*] Off-Reservation Conservation Code for the purposes of regulating the exercise of treaty-reserved off-reservation hunting and trapping rights applicable to the 1842 Michigan Ceded Territory;
4. **Applicable Codes/Law.** Existing tribal Off-Reservation Conservation Codes (tribal codes), and associated permit and registration systems, that apply to the Wisconsin 1837/1842 ceded territories under the *Voigt* [*Lac Courte Oreilles v. State of Wisconsin*] case will as appropriate govern tribal hunting and trapping in the 1842 Michigan Ceded Territory as those regulations must be implemented or modified to comply with this ordinance.
5. **Hunting and Trapping.** Hunting and trapping in the 1842 Michigan Ceded Territory shall be subject to the following:
 - a. **Season Dates.** The season dates shall comply with the existing tribal Off-Reservation Conservation Codes (tribal codes).
 - b. **Hours.** Hunting and trapping hours shall comply with the existing tribal Off-Reservation Conservation Codes (tribal codes).
 - c. **Methods.** Hunting and trapping methods shall comply with the existing tribal Off-Reservation Conservation Codes (tribal codes).
 - d. **Permits and Carcass Tags.** The tribes will not make any declarations for the 1842 Michigan Ceded Territory and will not be subject to a bag limit, however:

- i. Tribal members must carry their tribal identification card and/or harvest permit.
 - ii. For deer hunting, tribal members shall receive an antlerless deer permit and carcass tags from a tribal registration station in compliance with the requirements of the existing tribal Off-Reservation Conservation Codes (tribal codes). (*ex: Some Tribes issue tribal members 4 deer carcass tags*). Antlerless deer permits shall be clearly marked MI42 and be correspondingly sliced, slit or otherwise crossed out, to show that the harvest has occurred in the 1842 Michigan Ceded Territory.
 - iii. For bear hunting, tribal members shall receive a harvest permit and carcass tag from a tribal registration station in compliance with the requirements of the existing tribal Off-Reservation Conservation Codes (tribal codes). (*ex: Some Tribes issue tribal members one bear carcass tag.*)
 - iv. For small game hunting, tribal members shall receive a small game hunting harvest permit for all species and a carcass tag for fisher, otter, bobcat, and turkey from a tribal registration station in compliance with the requirements of the existing tribal Off-Reservation Conservation Codes (tribal codes).
 - v. For small game trapping, tribal members shall receive a small game trapping harvest permit for all species and a carcass tag for fisher, otter, and bobcat from a tribal registration station in compliance with the requirements of the existing tribal Off-Reservation Conservation Codes (tribal codes).
- e. **Registration.** Registration is required for all deer, bear, fisher, otter, bobcat, and turkey harvest which shall include the location of harvest in compliance with the existing tribal Off-Reservation Conservation Codes (tribal codes).
- f. **Locations.** Tribal Members shall engage in harvest activity on lands and waters open for hunting and trapping by operation of Michigan law.

Note: Tribal migratory bird hunting within the 1842 Michigan Ceded Territory is governed by the U.S. Fish and Wildlife Service Final Rule establishing federal regulations in response to the Tribe's proposal pursuant to the Service's guidelines described in the June 4, 1985, Federal Register (50 FR 23467).

Note: Tribal gathering within the 1842 Michigan Ceded Territory is governed by the National Forest Gathering Tribal Codes and Tribal - USFS MOU.

APPENDIX B

TRIBAL SELF-REGULATION AGREEMENT

This Tribal Self-Regulation Agreement [hereafter Self-Regulation Agreement] is entered into as part of the parties' ratification of the *Memorandum of Understanding Regarding the Recognition and Implementation of Tribal Ceded Territory Rights Guaranteed by the Treaties of 1836, 1837, and 1842* [hereafter MOU]. Specifically, the Self-Regulation Agreement implements the MOU's provisions regarding the Administration of Justice outlined in MOU Section VI.E.

1. **Parties.** The entities that may be parties to the Self-Regulation Agreement are the same as those that may be parties to the MOU, as set forth in MOU Section II.
2. **Incorporation of MOU's Provisions.** The MOU, as may be amended from time to time, is specifically incorporated by reference into the Self-Regulation agreement as if set forth in its entirety. The Self-Regulation Agreement shall be construed consistent with the purposes and provisions of the MOU, and, except as otherwise specifically provided herein, terms in the Self-Regulation Agreement shall have the same definition as provided in the MOU.
3. **Scope and Purposes of the Self-Regulation Agreement.** The Self-Regulation Agreement pertains to the administration of justice regarding the Tribes' exercise of their treaty-reserved ceded territory rights. Its primary purposes are to:
 - a. Facilitate the exercise of the Tribes' self-regulatory authority over the exercise of those rights; and
 - b. Prevent dual prosecution in tribal and federal forums stemming from conduct regulated by a Tribe's Off-Reservation National Forest Gathering Code that complies with the MOU's provisions [hereafter Complying Tribal Code].
4. **Enforcement and Prosecution of Alleged Violations of Tribal Law.** The parties acknowledge that conduct governed by a Complying Tribal Code also might be governed by federal statutes or regulations which the Forest Service is authorized to enforce in federal forums. Where the underlying conduct or act would be a violation of a Complying Tribal Code and of a federal statute or regulation, the parties agree that the Tribe's court is the preferred forum for dealing the alleged violation. Specifically, the parties agree:
 - a. Except as provide in subs. b, any conduct or act which is an alleged violation of a Complying Tribal Code shall be administered and prosecuted in accordance with the provisions of the Complying Tribal Code, provided:

- 1) The Complying Tribal Code is in force at the time of the alleged violation; and
 - 2) The Tribe maintains a tribal court with jurisdiction to enforce the Complying Tribal Code.
- b. After consultation with the affected Tribe, the Forest Service may initiate a federal enforcement action where the underlying conduct is egregious in nature. Factors to determine egregiousness shall include: the type of conduct involved; the amount of natural resources illegally taken; the nature and extent of the natural resource damages caused by the illegal act; considerations for specific and general deterrence; and considerations for compensating those persons or entities harmed or damaged by the conduct or act.
5. **Agreement Effective Date/Termination.** The Self-Regulation Agreement shall take effect when at least one Tribe, the Forest Service's Eastern Region and the Region's Law Enforcement and Investigations have properly ratified it in accordance with their respective governmental procedures. The Self-Regulation Agreement shall be binding as to and between those entities that ratify it upon notice to the other parties of their ratification as provided in MOU Section IX.
- The Self-Regulation Agreement shall automatically terminate at such time when the requisite combination of parties to make it effective no longer exists, or when the MOU terminates.
6. **Dispute Resolution.** The parties agree that any controversies, disputes, differences or misunderstandings arising out of the Self-Regulation Agreement shall be addressed as disputes under the MOU and handled in accordance with the MOU's provisions.
7. **Amendment of Agreement.** The parties agree that amendments to the Self-Regulation Agreement shall be addressed in accordance with the provisions of MOU Section VI.F.
8. **Required Notices/Parties' Designated Representatives.** The parties agree that the provisions of MOU Section IX shall apply to Notices of Ratification of and Withdrawal from the Self-Regulation Agreement and to the parties' designation of representatives regarding the Self-Regulation Agreement.

Chippewa Indians; Lac Courte Oreilles Band of Lake Superior Chippewa Indians; St. Croix Chippewa Indians of Wisconsin; Sokaogon Chippewa Community of the Mole Lake Band; Red Cliff Band of Lake Superior Chippewa Indians; Mille Lacs Band of Chippewa Indians; Bay Mills Indian Community; Keweenaw Bay Indian Community; and Lac Vieux Desert Band of Lake Superior Chippewa Indians.

- B. **USDA-FS.** On behalf of the United States Department Agriculture, Forest Service [hereafter Forest Service] as an agency of the United States Government: the Forest Service's Eastern Region; the Eastern Region's Law Enforcement and Investigations; and the Forest Service's North Central Forest Experiment Station.

III. **GOVERNING PRINCIPLES AND FUNDAMENTAL ASSUMPTIONS.** The parties agree that the MOU is based upon the following governing principles and fundamental assumptions and that the MOU shall be interpreted in accordance with them:

- A. **Existence of Ceded Territory Rights.** The parties acknowledge and recognize the Tribes' treaty-guaranteed hunting, fishing and gathering rights [hereafter ceded territory rights] that may be exercised on lands administered by the Forest Service located within the ceded territories.
- B. **Tribal Sovereignty and Self-Regulatory Capacity.** The parties acknowledge and recognize:
1. The Tribes' inherent sovereignty and retained regulatory authority regarding their ceded territory rights; and
 2. The Tribes' ability to administer and implement a system of effective tribal self-regulation regarding tribal member exercise of those rights.
- C. **Federal Trust Responsibility and Treaty Obligations.** The parties acknowledge and recognize that the Forest Service shares in the United States Government's trust responsibility and treaty obligations to work with the Tribes on a government-to-government basis to protect the Tribes' ceded territory rights on lands administered by the Forest Service.
- D. **Forest Service's Native American Policies.** The parties acknowledge and recognize the Forest Service's Native American policies as presently set forth in Forest Service Manual 1563 [Tribal Governments] and Forest Service Publication FS-446 [Native American Policy — Friends and Partners] to:
1. Maintain a governmental relationship with federally-recognized tribal

Approved and Recommended for Tribal Ratification by the Voigt Intertribal Task Force (August 6, 1998)

MEMORANDUM OF UNDERSTANDING

REGARDING

THE RECOGNITION AND IMPLEMENTATION OF

TRIBAL CEDED TERRITORY RIGHTS

GUARANTEED BY THE

TREATIES OF 1836, 1837, AND 1842

ON NATIONAL FOREST LANDS

This Memorandum of Understanding [hereafter MOU]: 1) recognizes and implements tribal ceded territory rights in the Chequamegon-Nicolet, Ottawa, Hiawatha, and Huron-Manistee National Forests as those rights are guaranteed in various treaties between a number of Chippewa Tribes and the United States; and 2) furthers the Native American policies of the USDA-Forest Service.

I. **CEDED TERRITORIES AND NATIONAL FORESTS INVOLVED (Figure 1).**

- A. **Ceded Territories.** This MOU specifically pertains to the territories ceded [hereafter ceded territories] by various Chippewa Tribes in the following Treaties: Treaty of 1836, 7 Stat. 491; Treaty of 1837, 7 Stat. 536; and Treaty of 1842, 7 Stat. 591.
- B. **National Forests.** This MOU specifically pertains to the portions of the following National Forests [hereafter National Forests] located in the ceded territories: Chequamegon-Nicolet in Wisconsin; and Ottawa, Hiawatha and Huron-Manistee in Michigan.

II. **PARTIES.** The following entities may ratify this MOU in accordance with their respective applicable laws and procedures, and, upon proper ratification, shall be deemed a party to this MOU:

- A. **Tribes.** In their respective sovereign capacities, the following federally-recognized Tribes [hereafter Tribes] that are members of the Great Lakes Indian Fish and Wildlife Commission [hereafter GLIFWC]: Bad River Band of the Lake Superior Tribe of Chippewa Indians; Lac du Flambeau Band of Lake Superior

resulting liability to any other party or prejudice to any claim a party may have against any other party.

2. Except as expressly provided herein, the fact that any Tribe or the Forest Service is or may have been a party to this MOU shall not be construed as a waiver of any rights, claims or defenses that, absent this MOU, any of those entities may have under any treaty between the United States and a Tribe, or under other applicable law of the United States.
3. The parties acknowledge that this MOU contains provisions that may be the result of compromise and policy choices. As such, these provisions may not reflect the full extent of the Tribes' ceded territory rights or of the Forest Service's responsibilities to manage the National Forests. Therefore, in the absence of or outside the scope of this MOU, the provisions contained herein are not intended to alter or abridge:
 - a. The Tribes' underlying ceded territory rights or those rights of any other treaty signatory Tribe that is not a party to this MOU; or
 - b. The Forest Service's rights or responsibilities to manage the National Forests in accordance with applicable law.

IV. **PURPOSES.** To accomplish the primary purposes of recognizing and implementing the Tribes' ceded territory rights and furthering Forest Service Native American policies, the parties intend to:

- A. **Government-to-Government Relationship.** Establish a framework for a cooperative, government-to-government relationship between the Tribes and the United States Government that:
 1. Ensures the meaningful exercise of the Tribes' ceded territory rights on the lands administered by the Forest Service within the ceded territories;
 2. Facilitates consistent and timely communication between parties at the appropriate levels of government; and
 3. Fosters effective participation by the Tribes in National Forest management, in the development, revisions and implementation of Land and Resource Management Plans [hereafter Forest Plans] and in subsequent Forest Plan implementation decisions.
- B. **Exercise of Ceded Territory Rights.** Establish agreed-upon parameters under

governments consistent with the President's Memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments;

2. Implement programs and activities in a way that honors Indian treaty rights and fulfills legally-mandated trust responsibilities to the extent they apply to National Forest System lands;
 3. Administer programs and activities to address and be sensitive to traditional Native religious beliefs and practices; and
 4. Provide research, transfer of technology, and technical assistance to tribal governments.
- E. **Forest Service's Forest Management Responsibilities.** The parties acknowledge and recognize that the Forest Service is the agency of the United States Government responsible for implementing law and policies related to National Forest management.
 - F. **Forest Service's Law Enforcement Responsibilities.** The parties acknowledge and recognize that the Forest Service's Law Enforcement and Investigations Branch is responsible for enforcement of alleged violations of federal laws and regulations occurring on lands administered by the Forest Service.
 - G. **General Tribal/USDA-FS Government-to-Government Relationship Unaffected.** This MOU applies specifically to the Tribes' ceded territory rights applicable on lands administered by the Forest Service, and the parties' relationships and dealings involving those rights. It is not intended, and should not be construed, to abrogate or otherwise affect any party's authority or responsibility in other areas. Similarly, it is not intended, and should not be construed, to otherwise define or restrict the parties' obligations, relationships or dealings in other areas of their respective authorities, responsibilities, or sovereign prerogatives.
 - H. **Effect of MOU on Non-Ratifying Tribes.** The parties' specific intent is that this MOU shall not bind or in any way affect the rights or claims of any GLIFWC member Tribe that chooses not to become a party or of any other Tribe that is a signatory to any of the treaties identified in Section I.B., above.
 - I. **Reservation of Rights, Claims and Defenses.**
 1. The termination of or withdrawal from this MOU shall be without

they rely. The Tribes measure the protection of these resources in terms of ensuring their sustainability for use by the seventh generation hence. The Forest Service is the federal agency responsible for managing the National Forests for the benefit of present and future generations. In addition, the Forest Service's policy is to carry out its programs and activities in a manner that is sensitive to the Tribes' traditional practices and beliefs. Therefore, the Tribes and Forest Service seek to collaboratively promote ecosystem management that protects and restores native communities and species, furthers the diversity of species, and ensures the sustained yield and availability of natural resources that are subject to the Tribes' ceded territory rights.

- D. **Efficient and Effective Law Enforcement.** As part of their self-regulatory system, the Tribes recognize the need to provide for the enforcement and adjudication of alleged violations of tribal laws governing the exercise of the ceded territory rights. To further compliance with tribal laws and to mete out meaningful and effective penalties, they recognize that the administration of justice in this context is best accomplished within their own communities and in their own forums. The Forest Service also recognizes that justice is best served in the communities most involved and affected. Therefore, the parties seek to establish a mutually beneficial efficient and effective system for enforcing applicable laws.
- E. **Consistent Ceded Territory Gathering Regulations.** The meaningful exercise of the Tribes' ceded territory rights requires a consistent, conservation-based harvest regulatory system throughout the National Forests. To avoid administrative inefficiency and the associated confusion, the Forest Service recognizes the need for a consistent gathering policy and regulatory scheme in each of the National Forests. Therefore, the parties seek to establish a ceded territory-wide policy and regulatory framework that provides for the exercise of the ceded territory rights in a consistent manner that meets conservation goals, protects the public health and safety, and promotes efficient and effective law enforcement.
- F. **Implementation of the Federal Trust Responsibility.** The Tribes continually seek to have United States Government and its agencies properly discharge the federal trust responsibility to assist in the development of the Tribes' governmental capabilities and to take actions for the Tribes' benefit. The Forest Service's policy is to administer its programs and activities in a manner sensitive to the Tribes' needs, beliefs, and practices, and to provide research, transfer of technology and technical assistance to the Tribes. Therefore, the parties seek to establish a framework for collaboration, communication and information exchange that will nurture understanding and maximize mutual benefits, and that

which the Tribes' ceded territory gathering rights may be exercised within the provisions of and the protections afforded by this MOU on lands administered by the Forest Service within the ceded territories.

- C. **Conservation of Natural Resources.** Protect, manage and enhance ecosystems and communities that support the natural resources subject to the Tribes' ceded territory rights on lands administered by the Forest Service.
- V. **RECOGNITION OF THE PARTIES' MUTUAL INTERESTS.** Underlying the purposes of and specific agreements contained in this MOU, the parties recognize a number of mutual interests that they wish to address:
- A. **Tribal Self-Determination and Self-Governance.** One of the Tribes' primary goals is to achieve self-determination and self-governance through the exercise of their retained sovereign governmental authority regarding their ceded territory rights. A key Forest Service policy is to administer its programs and activities in a manner that recognizes the governments of the Tribes and the authority that they carry out on behalf of the Tribes. Therefore, the parties seek to establish a government-to-government relationship that promotes collaboration and communication in the management of the National Forests, that provides for effective tribal self-regulation of the exercise of ceded territory rights on lands administered by the Forest Service, and, as noted below, that promotes efficient and effective law enforcement.
- B. **Collaborative Approach in the Management of Natural Resources.** The Tribes' ceded territory rights include the right to gather wild plants and to harvest wild animals on lands administered by the Forest Service, and the Tribes want to ensure that management of these lands protects their ability to meaningfully exercise these rights. The Forest Service is tasked with the administration of the National Forests and is the federal agency responsible for the care and management of the land and natural resources that are part of the National Forests. Therefore, the Tribes and the Forest Service seek to establish a relationship and associated processes that facilitate consistent and timely communication between them and that integrate the Tribes' needs and wishes for the desired state of the National Forests into Forest Plans and subsequent Forest Plan implementation decisions.
- C. **Sustainability of Ecosystems.** Since time immemorial, the Tribes have traditionally harvested certain plants and other resources found on lands now managed as the National Forests to meet subsistence, religious, cultural, medicinal and commercial needs. The Tribes' culture and lifeway depends on this harvest activity, and they wish to protect and enhance the natural resources upon which

The TWG will be comprised of qualified natural resource scientists, managers and researchers designated by the Forest Service and the Tribes, and should include designates from the North Central Forest Experiment Station and GLIFWC. Law enforcement personnel should participate in the TWG as necessary to address enforcement-related issues.

The Forest Service and the Tribes will each appoint a TWG co-chair to coordinate communication and planning for the group's work. The TWG may appoint one or more working subgroups to address specified issues.

- c. May, in addition to matters referred to the TWG, agree to refer specific questions or issues to designated representatives or *ad hoc* working groups for discussion, development of information, formulation of recommendations, or specific action.
 - d. Agree to provide such data and information as another party might request pertaining to matters addressed by the MOU, such as natural resource population and harvest data, law enforcement statistics and tribal court statistics.
4. The parties shall cooperate in identifying and seeking adequate funding for the enhancement of their infrastructures necessary to improve the implementation of this agreement. However, the parties acknowledge that this MOU does not modify or restrict the budgetary authority of any party.
 5. The parties shall undertake cultural sensitivity training for their personnel who will be responsible for implementing this MOU. The parties also shall engage in joint and coordinated public education efforts to inform the public about this MOU and its underlying purposes.

B. National Forest Planning and Decision-making. The parties recognize that Forest Service decisions vary in their effects on the abundance of, distribution of or access to the natural resources on the lands that it administers. For example, the Forest Service, at various levels, makes a number of decisions that relate to such matters as the development, revision and implementation of Forest Plans for each of the National Forests covered by this MOU. They include decisions that commit to particular land management actions, such as project level decisions (including closures of temporary and permanent roads), and decisions that establish the policies or guidelines that govern these actions. Other decisions relate to such matters as the internal administration of the Forest Service as an

will enhance the development of the Tribes' capabilities necessary to ensure effective tribal participation in the processes and procedures established in this MOU.

VI. SPECIFIC AGREEMENTS TO IMPLEMENT THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP. This section sets forth the specific agreements to implement the parties' government-to-government relationship in these areas: (A) MOU administration and implementation; (B) National Forest planning and decision-making; (C) natural resource harvest management; (D) natural resource research and monitoring; (E) law enforcement; and (F) amendment of the MOU and its Appendices.

A. MOU Administration and Implementation.

1. The parties shall strive to reach consensus in all decisions, actions and processes contemplated by the MOU.
2. Unless otherwise specifically provided in this MOU, the parties shall attempt to resolve any dispute arising under the MOU at the lowest possible level on a government-to-government basis between properly authorized representatives of the parties who have the authority to resolve the dispute in question.
3. To facilitate on-going communication and the resolution of outstanding issues, the parties:
 - a. Shall meet at least annually to facilitate on-going communication, to review progress made and discuss issues arising under this MOU, to ensure that the parties are faithfully and effectively implementing this MOU and adhering to its terms, and to discuss trends, issues or other matters that may effect the MOU.
 - b. Hereby establish a Technical Working Group (hereafter TWG) whose purpose shall be to review any scientific, technical or natural resource management issue referred to it in this MOU or by subsequent agreement of the parties. The TWG is empowered to make recommendations to the parties regarding the matters referred to it, such as the development and coordination of research projects, possible harvest monitoring and regulatory responses to particular circumstances, and data/information exchange regimens. The TWG also is empowered to suggest to the parties issues that may require the parties' attention and consideration.

Service official, including the appropriate Forest Supervisor and the Regional Forester. The Forest Service agrees to delay a final decision on the unresolved matter until this process has had the opportunity to take place within a reasonable amount of time.

- 2) The Forest Service may make and implement the decision.
- 3) In addition to the procedures provided by the MOU, a Tribe may challenge or appeal any Forest Service decision or action in accordance with applicable law.

2. As to decisions relating to the administration of Forest Service budgets, personnel or property, the parties shall cooperate in identifying and seeking adequate resources for the Tribes' and Forest Service's capabilities necessary to implement this MOU. In particular, the Forest Service shall seek input from the Tribes in a timely manner regarding the development of its budget proposal for upcoming fiscal years.
3. During the course of their dealings, the Tribes and Forest Service shall ensure that they have identified their representatives with whom the other parties should interact regarding particular decisions or particular types of decisions.
4. Nothing in this MOU shall preclude the Tribes and Forest Service from discussing matters or advancing particular requests that are not part of a particular pending Forest Plan implementation decision.

C. **Natural Resource Harvest Management.** The Tribes and Forest Service acknowledge their mutual interests in undertaking a collaborative approach in managing the harvest of natural resources on lands administered by the Forest Service to ensure the sustainability of ecosystems and the sustained yield of natural resources, in ensuring that the Tribes' ceded territory rights are meaningfully exercised, and in providing for a consistent conservation-based system under which the Tribes will exercise their ceded territory rights on those lands. Specifically, the Tribes and Forest Service agree:

1. Within the bounds of their respective authorities, to regulate and monitor the harvest of natural resources on lands administered by the Forest Service in a manner that provides for a sustained harvest of those resources and affords the Tribes the opportunity to harvest an equal allocation of the harvestable surpluses of those resources.

agency regarding personnel, property and budgets, and do not commit to particular land management actions or establish policies governing those actions.

The Tribes and Forest Service agree that they shall consult on a government-to-government basis on all Forest Service decisions that affect the abundance, distribution or access to the natural resources on lands administered by the Forest Service. In addition, they agree that the goal of such consultation shall be that any such Forest Service decision should expressly recognize and accommodate the Tribes' ceded territory rights, protect and enhance treaty-reserved natural resources, and accommodate exercise of ceded territory rights by tribal members under tribal regulations.

To achieve this end, the Tribes and Forest Service specifically agree that:

1. As to decisions that result in particular land management actions, in policies or guidelines governing those actions, or in research projects to be conducted by the North Central Forest Experiment Station:
 - a. The Forest Service shall consult with and facilitate effective participation by the Tribes at all stages and levels of the decision-making process. This collaboration is recognized as a dynamic process that must include consultation on a consistent and timely basis at the appropriate levels of government and that must be flexible to deal with ever-changing circumstances and adaptive natural resource management responses.
 - b. The Forest Service shall consider the effects of its decisions on treaty resources and the ability of the Tribes to exercise treaty gathering rights. In decision and analysis documents, including those required by the National Forest Management Act and the National Environmental Policy Act, decision-makers will show how tribal information and involvement was taken into account in analyzing the effects of potential management actions and in making the decision.
 - c. The Tribes and the Forest Service will strive to reach consensus. Where consensus cannot be reached:
 - 1) They will attempt to resolve any dispute or disagreement first by good faith discussions between the affected Tribe(s) and the Forest Service deciding official. The Tribe(s) may raise any matter not resolved at this level to a higher Forest

request and shall indicate in writing to the Forest Service the types and amounts of trees sought, the use to which the trees will be put, and the anticipated time frame for the harvest. The Forest Service shall promptly consider the request, consult with the requesting Tribe as to the specifics of the proposal, and provide in writing its decision and the underlying rationale. The Forest Service shall make every attempt to accommodate the request and, before withholding consent, shall discuss with the Tribe possible alternatives. In any event, Forest Service consent shall not be unreasonably withheld.

9. That the Tribes and their members use National Forest campgrounds in the exercise of their ceded territory rights and that Forest Service fees and length of stay restrictions at campground should not interfere with the exercise of the rights. The parties acknowledge that, prior to completion and ratification of the MOU, time constraints have prevented them from developing the necessary Exemption Agreement and accompanying Implementation Plan regarding campground fee and length of stay exemptions for tribal members. Upon ratification of the MOU, the parties commit to immediately developing the Agreement and Implementation Plan. Once properly approved, the Exemption Agreement and Implementation Plan shall become part of the MOU and be specifically incorporated by reference herein as if set forth in their entirety.
 10. That the parties have not resolved their disagreement regarding the Tribes' request for unrestricted motorized use of Crooked Lake in the Sylvania Wilderness located in the Ottawa National Forest. While the parties agree to disagree on this matter at this time, they will continue to strive for a resolution using the procedures and processes contained in the MOU. The parties acknowledge that on all other matters regarding wildernesses, their agreement is properly reflected in the provisions of the attached Model Code, including specifically those of §3.06(1)(a) that establish Tribal National Forest Wildernesses.
 11. That, in accordance with the provisions of subsection F, below, the Forest Service will notify the Tribes of and obtain the Tribes' input on proposed changes in federal laws or regulations that are intended to regulate or otherwise restrict the harvest of natural resources on lands administered by the Forest Service within the ceded territories.
- D. **Monitoring and Evaluation.** To ensure the sustainability of ecosystems, the Tribes and Forest Service acknowledge the importance of inventorying and monitoring the status of species and their habitats within the National Forests,

2. That the Tribes will regulate tribal member gathering on lands administered by the Forest Service by adopting regulations and implementing permit systems that are no less restrictive than those set forth in the Model Off-Reservation National Forest Gathering Code [hereafter Model Code], which is attached as Exhibit A and specifically incorporated into this MOU.
3. That any changes making the Model Code, or any Tribe's enactment based upon the Model Code, less restrictive will fall within the scope of the MOU if the Forest Service's consent is obtained in accordance with the provisions of subsection F, below.
4. To monitor harvest levels in the most effective and precise manner needed to ensure resource protection and to exchange harvest monitoring data on a regular basis.
5. To designate areas for tribal sugar bushes that will meet needs identified by the Tribes and to jointly develop specific sugar bush management plans.
6. To locate species of interest to the Tribes and to provide gathering opportunities for those resources, particularly regarding gathering opportunities associated with National Forest timber sales.
7. That once the Forest Service decides that it intends to solicit bids for timber sale contracts for down or damaged trees, trees in the designated timber salvage stands having a diameter of four inches or greater, whether they are alive, dead, down or standing, will be regulated in the same manner as standing live trees for treaty harvest purposes. For the purposes of the MOU and attached Model Code, the term "Forest Service timber salvage stand" means any stand of trees where the Forest Service has notified the Tribes of its decision to solicit bids for a salvage timber sale contract, and the term "salvage timber" means any tree in that stand, whether alive, dead, down or standing, having a diameter of four inches or greater.
8. That the Tribes will not issue a permit for the harvest of live trees or of salvage timber for the purposes of constructing a structure/dwelling, as these terms are defined in the attached Model Code, without the Forest Service's consent. In seeking the Forest Service's consent, the requesting Tribe shall inform the other Tribes that are parties to the MOU of the

of this subsection, "properly ratified" means a party's approval of and the agreement to be bound by the Self-Regulation Agreement in accordance with that party's required governmental procedures.

3. That any changes in the Self-Regulation Agreement shall be made in accordance with the provisions of subsection F, below.
4. Primary enforcement and administration of justice responsibilities for the Tribes' regulations lies with the Tribes and their properly authorized agencies.
5. The Tribes and Forest Service will coordinate their respective law enforcement activities and establish cooperative law enforcement ventures, such as joint patrols, effective communication systems, information and potential violation referral processes, and joint training activities. These coordinated law enforcement activities shall include at least annual meetings between designated enforcement personnel.

F. **Process for MOU Amendments, Regulatory Changes and Self-Regulation Agreement Changes.** The parties recognize the dynamic nature of their government-to-government relationship. They also recognize that changes in federal and tribal regulation and management of the harvesting of the National Forests' natural resources in the ceded territories are inevitable. To facilitate open communication and minimize disputes arising from the dynamics of their relationship and from the need to change harvest regulations, the parties agree:

1. **Consensus/Resolution of Disputes.** As for the matters addressed by this subsection F, the affected parties shall strive to reach consensus on the matter at hand. Where consensus cannot be reached:
 - a. The affected parties will attempt to resolve any dispute or disagreement first by good faith discussions at the appropriate governmental level. A party may raise any matter not resolved at this level to a higher official of another party. If it has the authority to do so, a party will delay a final decision on the unresolved matter until this process has had the opportunity to take place within a reasonable amount of time.
 - b. A party claiming the requisite authority may make and implement a decision on the unresolved matter.
 - c. In addition to the procedures provided by the MOU, a party may

evaluating the impacts of harvest on the resources subject to the Tribes' ceded territory rights, and evaluating the effects of other land management activities on those resources. With the input and recommendations of the TWG, the Tribes and Forest Service agree to:

1. Review their respective existing research projects and administrative studies as needed for the purpose of encouraging research coordination.
2. Establish and implement a program of research, monitoring and evaluation regarding the resources subject to the Tribes' ceded territory rights that specifically would:
 - a. Inventory species status and habitat requirements.
 - b. Monitor the population dynamics and habitats of species as Forest Plans are implemented.
 - c. Determine the effects of land management activities, such as timber harvest, on species' populations.
 - d. Determine the effects of wild plant harvest on the status of the species being harvested.
 - e. Evaluate such other matters that relate to the resources subject to the Tribes' ceded territory rights.

E. **Law Enforcement.** The parties acknowledge the Tribes' capabilities to implement a self-regulatory system governing the exercise of ceded territory rights applicable on lands administered by the Forest Service. The parties specifically agree that:

1. Any regulation adopted by Tribe consistent with the MOU will govern the exercise of the Tribes' ceded territory gathering rights within the National Forests and is within the scope of the MOU. Any Tribe's regulation that is not consistent with the MOU's provisions is outside the MOU's scope.
2. The enforcement of the Tribes' regulations and of any federal statute or regulation governing the conduct within the scope of a Tribe's regulations that are consistent with the terms of the MOU shall be governed by a properly ratified agreement that is no less restrictive than the Tribal Self-Regulation Agreement [hereafter Self-Regulation Agreement], attached as Appendix B and specifically incorporated into the MOU. For the purposes

change within the 45-day period, or any extension thereof, will be deemed as agreement to the proposal.

The Forest Service and the Tribes agree to afford as much time as is necessary and appropriate for consensus to be reached on any objection to a proposed or requested change.

A properly amended Model Code shall replace the then-current Appendix A to the MOU and is specifically incorporated by reference herein as if set forth in its entirety.

5. **Tribal Self-Regulation Agreement.** Any party may submit a written request to the other parties for a change in the Self-Regulation Agreement. Except in cases of emergency, such request will be provided at least 60 days in advance of the desired effective date of the change and will include an explanation of the proposal's rationale. Within 45 days of receipt, or such other time period as may be agreed upon, the receiving party or parties shall respond expressing any objections and indicating any changes that are agreeable. The failure to object in writing to a proposed change within the 45-day period, or any extension thereof, will be deemed as agreement to the proposal.

The Forest Service and the Tribes agree to afford as much time as is necessary and appropriate for consensus to be reached on any objection to a proposed change.

A properly amended Self-Regulation Agreement shall replace the then-current Appendix B to the MOU and is specifically incorporated by reference herein as if set forth in its entirety.

VII. CONGRESSIONAL INVOLVEMENT. Pursuant to 42 U.S.C. Section 22, no Member of or Delegate to the Congress of the United States shall be admitted to any share or part of this instrument, or any benefits that may arise therefrom.

VIII. MOU EFFECTIVE DATE/TERMINATION. The MOU shall take effect on the date when at least one Tribe, the Forest Service's Eastern Region, the Region's Law Enforcement and Investigations Branch, and the North Central Forest Experiment Station have properly ratified it in accordance with their respective governmental procedures. The MOU shall be binding as to and between those entities upon notice to the other parties of their ratification as provided in Section IX, below.

The MOU shall automatically terminate at such time when the requisite combination

challenge or appeal another party's decision or action in accordance with applicable law.

2. **MOU Amendment.** Any party may propose an amendment to the MOU in writing to the other parties. Within 60 days of receipt, the parties shall convene a meeting to consider the proposal. An amendment may be adopted by and binding upon less than all of the parties provided that the adopting parties include at least one tribal party and the Forest Service.
3. **Federal Laws and Regulations.** The Forest Service agrees to seek the input of the Tribes on proposed changes to the Forest Service's regulation of natural resource harvesting within the ceded territories by providing written notice, including an explanation of the underlying rationale, to the Tribes at least 60 days in advance of the desired effective date of the proposed change. The Tribes shall have 45 days, or such other time period as may be agreed upon, to provide comments.

In addition, the Tribes may submit a written request to the Forest Service for changes in the Forest Service's regulation of natural resource harvesting, including an explanation of the request's rationale. The Forest Service agrees to respond to the request within 45 days, or such other time period as may be agreed upon.

Unless other time frames are specifically imposed by applicable law, the Forest Service and the Tribes agree to afford as much time as is necessary and appropriate for consensus to be reached on the Forest Service proposal and on a Tribe's request.

4. **Model Code or Tribal Enactments Based Upon the Model Code.** The Tribes agree to notify the Forest Service in writing of any proposed change that would make the Model Code, or any Tribe's enactment based upon the Model Code, less restrictive than provided for in the MOU. In addition, the Forest Service may request the Tribes to change the Model Code, or any Tribe's enactment based upon the Model Code, to be more restrictive than provided for in the MOU.

Except in cases of emergency, such notices and requests will be provided at least 60 days in advance of the desired effective date of the change and will include an explanation of the proposal's rationale. Within 45 days of receipt, or such other time period as may be agreed upon, the receiving party or parties shall respond expressing any objections and indicating any changes that are agreeable. The failure to object in writing to a proposed

parties to make the MOU effective no longer exists.

IX. REQUIRED NOTICES/PARTIES' DESIGNATED REPRESENTATIVES.

- A. **Notice of Ratification.** Within 30 days of ratification of the MOU, an entity shall notify all other entities listed in Section II, above, of the date of ratification. Each party's Notice of Ratification is specifically incorporated into the MOU as if set forth in its entirety.
- B. **Notice of Withdrawal.** A party shall provide written notice to the other parties of its intent to withdraw from the MOU at least 60 days in advance of the proposed withdrawal date. Within 45 days of such notice, or such other time period as may be agreed upon, the parties shall convene a meeting to discuss the intent to withdraw and to attempt to reach consensus on ways to prevent the withdrawal. Should a party ultimately withdraw from the MOU, it shall provide a written Notice of Withdrawal to the other parties, and such Notice is specifically incorporated into the MOU as if set forth in its entirety.
- C. **Designated Representatives.** In providing notice of its ratification, a party may designate its representative for receiving the notices from the another party that are required by the MOU. Where a party has not formally designated a representative either with its Notice of Ratification or with respect to particular matters addressed by the MOU, another party may provide a required notice ex officio to the office of the official that provided the party's Notice of Ratification.

- X. **INITIAL MEETING OF THE PARTIES.** Within 90 days of the MOU's effective date, the parties shall convene an initial meeting for the purposes of: (A) identifying those matters that require immediate attention in implementing the MOU's provisions, such as the agreement and implementation plan regarding campground fees and length of stay restrictions; (B) identifying and addressing any other matter regarding the MOU that requires the parties' attention; (C) setting forth a timetable for addressing those matters; and (D) identifying their representatives that will serve as their "keepers of the process" in ensuring that the MOU is faithfully implemented. These representatives may be persons other than a party's designated representative for receiving required notices from another party provided for in Article IX, above.

