

TRIBAL CODE
CHAPTER 22
TIMBER TRESPASS CODE

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HISTORY NOTE:

Adopted March 14, 1985, Resolution No. 76(85), effective immediately.

Amendments to ss. 22.104 and .106 adopted February 9, 1987, Resolution No. 37(87), put out for advisory referendum Resolution No. 58(87), rejected by referendum March 18, 1987.

Amendment Sec. 22.104(5) amended May 18, 1987, Resolution No. 152(87)

Amendment Sec. 22.104(5) amended September 21, 1987, Resolution No. 297(87)

Amendment Sec. 22.104(3) amended March 7, 1988, Resolution No. 63(88) adding Sec. 22.104(c) Prohibited Acts.

TRIBAL CODE

CHAPTER 22

TIMBER TRESPASS CODE

22.101 Scope and Purpose.

(1) The purpose of this code is to provide tribal remedies for trespass to timber interests of the Tribe or its members on tribal trust or allotted lands. This code is adopted pursuant to the powers of the Tribal Council as set forth in Article VI, Sections 1(a), (j), and (r), of the Tribal Constitution.

(2) This code is not intended to provide the exclusive remedy for timber trespass. The Tribe recognizes that federal law provides for criminal penalties and treble damages for timber trespass, and this code is intended to operate in addition to the remedies available under federal or state law.

20.102 Definitions.

As used in this code:

(1) "Allotted land" means land or any interest therein located within the bounds of the reservation held in trust by the United States for the benefit of individual Indians.

(2) "Reservation" means the area within the external boundaries of the Lac du Flambeau Reservation.

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

(4) "Tribal Court" means the Lac du Flambeau Tribal Court.

(5) "Tribal trust land" means land or any interest therein located within the bounds of the reservation held in trust by the United States for the Tribe, or any other land which may be hereafter placed in trust for the Tribe.

22.103 Implied Consent.

Entry upon tribal land without the permission of the Tribe is prohibited. Entry upon allotted land without the permission of the allottees or the United

States is prohibited. Such permission when given is expressly conditioned upon the consent of the person whose entry is permitted to the jurisdiction of the Tribe for purposes of enforcing this code. Any person who enters upon allotted land or tribal trust land shall be deemed to have given consent to the jurisdiction of the Tribe for purposes of enforcing this code.

22.104 Prohibited Acts.

No person shall:

(1) Willfully and in an unauthorized manner set fire to timber, underbrush, or grass or any other flammable material upon any allotted lands or tribal trust land.

(2) Having kindling or caused to be kindled a fire in or near any forest timber or other flammable material on any allotted land or tribal trust land, leave said fire unattended, or without totally extinguishing it, or permit such fire to spread beyond his or her control.

(3) Excepting those trees harvested by members for personal Christmas use, cut trees standing or growing upon allotted land or tribal trust land without a valid contract or permit to do so, or in a manner exceeding the scope of such contract or permit. No member seeking to harvest dead or downed wood for firewood shall be required to obtain a permit for that activity.

(4) Wantonly injure or destroy trees standing, growing, or being upon allotted land or tribal trust land.

(5) Cut, or assist in any manner the cutting of trees under a firewood permit issued to a tribal member, unless such person is the spouse of the tribal member to whom the permit is issued and the following conditions are met:

(a) The tribal member is present in the wood cutting area while the firewood is being obtained; or

(b) The member's absence is excused by a written doctor's statement provided to the Tribe at the time the firewood permit is requested by the member, and waiver of the presence requirement is states on the face of the permit.

22.105 Procedure.

The Tribal Court shall hear matters pertaining to the violations of this

code. Proceedings for violation of this code shall be governed by Chapters III and IV of the Tribal Court Code, Tribal Code Ch. 80, provided that citations for violations of this code may be served by mail.

22.106 Enforcement and Penalties.

(1) The provisions of this code shall be enforced by tribal law enforcement officers. In addition, any federal, state, or local law enforcement officer may institute proceedings to enforce this code.

(2) Violations of the provisions of this code shall be punishable by a civil remedial money penalty of no more than \$500, plus \$10 court costs.

(3) Any vehicle or other equipment used in the violation of this code may be seized and sold in accordance with Chapter VI, Part Two of the Tribal Court Code, Tribal Code Ch. 80.

(4) In addition to seeking a civil money penalty and/or seizure of and sale of equipment, the Tribe may bring an action to recover damages from the violator in an amount not to exceed three times the value of the timber injured, destroyed, or removed.