

**MODEL OFF-RESERVATION CONSERVATION CODE FOR THE 1837 MINNESOTA
CEDED TERRITORY¹**

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¹This 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
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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.

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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.

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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].

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.

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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.

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

ordinance for each twelve month period from April 1 through March 31 shall be limited by the management measures (including closed seasons, method restrictions, bag limits and size limits) set forth herein and by any quotas established under Section 9.05(4). All management measures and quotas shall be consistent with the court's opinions, orders and decrees in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.).

9.04 Fishing Permits.

(1) No member shall fish pursuant to this ordinance without possessing a valid fishing permit. Such a permit may be the member's tribal identification card required by Section 3.02(2).

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

History: Section 9.04 was amended in November 2002.

9.05 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) With the exception of harvest methods for which no daily maximum harvest limit is established or for which such a limit is established by a special permit, the daily bag limits in subsection (3) shall be the maximum numbers of the fish species permitted to be taken by one member in any one day by all fishing methods combined.

(3) For the purposes of bag limits, "day" shall mean a continuous 24 hour period consistent with

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the nature of the harvest activity involved.

(4) Except as provided in subsection (5) below, 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:

Open Season

**Kind of Fish Methods (Dates are Maximum or
and Locality Permitted Inclusive) Bag Limit Minimum Size Limits**

(a) Largemouth and Smallmouth Bass.

(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 spearing subject to	Year Around	10 per person/day except as	None
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	Section 9.06, and snagging		provided otherwise in Section 9.06	
(iii) All waters	Setline, set or bank	Year Around	10 per person/	None
pole subject to section 9.09		day		

(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 gillnets) subject to Section 9.07	Year Around	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 pole subject to Section 9.09	Year Around	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.				
(i) All waters	Open water hook & line fishing, ice fishing (including spearing when ice fishing)	Year Around	10 per person/ day	None
(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 9.08(2)(c) 9.08. None noted in Section to Section 9.08

(d) Lake Sturgeon.

(i) St. Croix River below Taylors' Falls (including)	Open water hook & line fishing, ice fishing (except as provided when ice fishing)	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) - Gillnets subject Year Around None None

(i) Cisco and Whitefish.

(i) All waters Hook & line; ice Year Around 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 None None

9.07

(ii) Waters designated in Sec. 9.08(2) subject to Gillnets	Year Around	None	None
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(j) Rough Fish.

(i) All waters otherwise specifically prohibited by this ordinance except gillnetting	All methods unless Year Around	None	None
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(ii) Waters designated subject to Gillnets	Year Around	None	None
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nated in Sec. 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

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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 unpredictable 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.

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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

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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].