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# CONSERVATION CODE OF THE BOIS FORTE BAND OF CHIPPEWA

## SECTION I. INTRODUCTION

**1.01: TITLE.** This ordinance shall be known as the Bois Forte Conservation Code.

**1.02: AUTHORITY.** This Code is enacted pursuant to Article VI of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe authorizing the Bois Forte Band of Chippewa Indians (the Band) to manage its lands and assets; and pursuant to the Band's inherent power to self-govern and regulate the use, conservation and management of the natural resources, including fish, wildlife and plants within its jurisdiction.

**1.03 PURPOSE.** The purposes of this Code are to:

- a) Provide an orderly system for the control and regulation of hunting, fishing, trapping and gathering activities.
- b) Provide a means to promote public health and safety and the conservation and management of fish, wildlife and plant population.
- c) Provide a means to control and regulate other outdoor and recreational activities which may affect the natural resources.

**1.04: TERRITORIAL APPLICABILITY.**

- a) Territory.

The Code shall extend to all Indian country, as defined in 18 U.S.C § 1151, over which the Band has governmental jurisdiction (the "Territory"). This territory shall include, but is not limited to, all land within the exterior boundaries of those areas known as the Nett Lake, Deer Creek, and Vermilion sectors of the Bois Forte Reservation, the Indian title to which has not been extinguished, including but not limited to Indian Point and Sugar Bush; and to the waters adjacent to that territory; provided that nothing herein shall divest the 1854 Treaty Authority of jurisdiction over that territory ceded by the Treaty of September 30, 1854.

- b) Basis for Jurisdiction

The Band maintains and exercises jurisdiction over all persons, activities, and property within the Territory based on the inherent sovereign authority of the Band and federal law. The Band's inherent sovereign authority includes those powers flowing from the Band's authority to exclude non-members from its territory, including the power to place conditions on non-members' entry onto and continued presence on lands within the Band's jurisdiction, and the power to regulate non-members' conduct on such land. The Band's

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inherent sovereign authority also includes the power to exercise jurisdiction over non-members who have consented to the jurisdiction of the Band or its Tribal Court, or whose conduct affects the political integrity, the economic security, or the health or welfare of the Band or any of its members. The Band's jurisdiction under federal law includes the full scope of tribal jurisdiction recognized under federal common law and statute, including with respect to civil and criminal matters.

c) Persons and Entities Subject to the Band's Jurisdiction.

The following persons and entities are subject to the Band's jurisdiction under this Code to the maximum extent permitted under Band and Federal law:

- (1) All Band members and non-member Indians within the Territory;
- (2) All other persons and entities within the Territory who consent to the regulatory and adjudicatory jurisdiction of the Band;
  - a. For purposes of this Code, a person or entity consents to the regulatory and adjudicatory jurisdiction of the Band and its Tribal Court by: entering into a consensual relationship with the Band, tribal entities, tribal corporations, or tribal members, that relates to the matters governed by this Code, including but not limited to: contracts or other agreements in any form; applying for and receiving any permits required by this Code; voluntarily entering tribal land or property; engaging in any activity or conduct that is authorized, regulated or conducted by the Band, an arm of the Band or tribal corporation; or, by any another expression of intent to consent to the authority of the Band or the jurisdiction of the Bois Forte Tribal Court.
- (3) All persons within the Territory who are subject to the Band's criminal jurisdiction, under 25 U.S.C. § 1304(b)(4)(A), and Chapter 5, Part B, of the Bois Forte Tribal Code for any violation of the Band's criminal law that involves interfering with the administration or due process of the Band's laws, including the Code.

**1.05: EFFECTIVE DATE.** This code shall be effective on the date specified by the Bois Forte Reservation Tribal Council (the "Tribal Council").

**1.06: INTERPRETATION.** The provisions of this Code shall be:

- a) Interpreted and applied as minimum requirements applicable to the exercise of hunting, fishing, trapping and gathering activities subject to this Code;
- b) Liberally construed in favor of the Band;
- c) Not construed as a repeal or waiver of any power, authority or immunity of the Band.

**1.07: SEVERABILITY AND NON-LIABILITY.** If any provisions of this Code are declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Code shall not be affected thereby. Nothing herein shall constitute or be construed to be a waiver of the immunity of the Band or any committee, officer, employee or agent of the Band nor shall this Code subject the Band to liability for damages or other relief resulting from enforcement of this Code, reliance upon it, or conformance to it.

**1.08: REPEAL OF PRIOR AND INCONSISTENT ORDINANCES.** All prior ordinances pertaining to hunting, fishing, trapping and gathering activities within the territory of the Band, except those that are

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not inconsistent with the provisions contained herein or which may pertain to the Band's participation in the 1854 Authority, are hereby repealed.

## SECTION II. DEFINITIONS

- 2.01: APPLICATION:** For the purpose of this Code, the terms set forth in this section shall have the following definitions:
- 2.02 AIRCRAFT** means any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air, whether or not propelled by machinery, including but not limited to, seaplanes, floatplanes, helicopters, or gliders.
- 2.03: BAND MEMBER** means a person who is an enrolled member of the Bois Forte Band of Chippewa Indians.
- 2.04: BIG GAME** means deer, moose, and bear.
- 2.05: BOIS FORTE DEPARTMENT OF NATURAL RESOURCES (BFDNR)** means the Band's Department of Natural Resources established by the Tribal Council.
- 2.06: BOIS FORTE RESERVATION AND "RESERVATION"** means the territory described in Section 1.04.
- 2.07: BOIS FORTE RESERVATION TRIBAL COUNCIL AND "TRIBAL COUNCIL"** means the duly elected governing body of the Bois Forte Band of Chippewa.
- 2.08: CONSERVATION** means the protection and management of fish and wildlife in their natural habitat in a manner intended to achieve a sustained harvestable surplus for the Band to utilize.
- 2.09: CONSERVATION COMMITTEE** means the Committee appointed by the Tribal Council in accordance with Article II, Section 6 of the Tribal Council Bylaws to oversee conservation matters within the Reservation.
- 2.10: CONTROLLED SUBSTANCE** means those substances defined in the Bois Forte Traffic Code, Section 809, Subd. 1 (c).
- 2.11: FISH AND WILDLIFE** means all living creatures, not human, wild by nature and endowed with sensation and power of voluntary motion which includes mammals, birds, fish, amphibians, crustaceans, and mollusks. "Fish and wildlife" also includes plants.
- 2.12: GAME** means big game and small game.
- 2.13: GAME BIRDS** means upland game birds and "migratory game birds" as defined under federal law as 50 CFR Part 20.11 (2000).
- 2.14: GAME FISH** means walleye, sauger, yellow perch, channel catfish, flathead catfish; members of the pike family, including muskellunge and northern pike; members of the sunfish family, including largemouth bass, smallmouth bass, sunfish, rock bass, white crappie, black crappie; members of temperate bass family, including white bass and yellow bass; members of the trout family, including lake trout, brook trout, brown trout, rainbow or steelhead trout and splake; members of the paddlefish family; members of the sturgeon family, including lake sturgeon and shovelnose sturgeon. Game fish includes hybrids of game fish.

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- 2.15: GATHERING** means the taking or harvest of plants but shall not include traditional use of plants including plants used for medicinal purposes in accordance with written guidelines established by the Conservation Committee.
- 2.16: GUIDE** means a person who charges, receives or collects a fee, whether in cash or otherwise, to direct, assist or accompany a non-Band member, for the purpose of waterfowl hunting.
- 2.17: HUNT AND FISH, HUNTING AND FISHING** means to take by any means any wild animal and shall also include the gathering of plants.
- 2.18: INTRODUCE or INTRODUCTION** means to place, release, or allow the escape of a nonnative species into a free-living state. Introduce or introduction does not include the immediate return of a nonnative species to waters from which the nonnative species was removed.
- 2.19: LAW ENFORCEMENT OFFICER** means any Band Conservation Officer, any Officer of the Bois Forte Police Department and any other law enforcement officer authorized by the Tribal Council to enforce Band or Federal Laws on the Reservation.
- 2.20: MOTORBOAT** means a watercraft propelled in any manner by machinery, including but not limited to a watercraft temporarily equipped with detachable motors, whether or not the machinery is the principal source of propulsion.
- 2.21: MOTOR VEHICLE** means a self-propelled vehicle, or a vehicle propelled or drawn by a self-propelled vehicle that is operated on the ground, on the water, or in the air.
- 2.22: NETT LAKE** means the waters of Nett Lake and its tributaries located within the Bois Forte Reservation.
- 2.23: NON-NATIVE SPECIES** means an animal or plant species that is not naturally present and reproducing within Nett Lake or that does not naturally expand from its historic range into Nett Lake. Non-native species shall include, but not be limited to, those animals or plants listed on BFDNR's list adopted pursuant to Section 14.02, subd. 2.
- 2.24: PLANTS** means wild rice, edible berries, boughs of coniferous trees, princess pine, and all parts thereof.
- 2.25: POSSESSION** means both actual and constructed possession and control of the things referred to.
- 2.26: PROTECTED BIRDS** means "game birds" as defined in Section 2.13.
- 2.27: PROTECTED WILD ANIMALS** means big game, small game, game fish, rough fish, and other fish and wildlife that are protected by a restriction in the time or manner of taking.
- 2.28: RESIDENT** means a person who has resided continuously on the Reservation for a period of at least five (5) years in such a manner that are based upon day-to-day observations made by the Band that would reasonably conclude that the person is a full-time resident. Periods of absence for education, military service, and travel associated with employment and treatment of illness shall not preclude a person from being considered a resident.

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- 2.29: ROUGH FISH** means carp, buffalo, sucker, sheepshead, bowfin, burbot, cisco, gar, goldeye, and bullhead.
- 2.30: SALE** means an exchange for consideration and includes barter, offer to sell and possession with intent to sell.
- 2.31: SHINING** means the use of artificial light to locate wild animals while in the possession of a firearm, bow and arrow, or crossbow.
- 2.32: SMALL GAME** means game birds, gray squirrels, fox squirrel, cottontail rabbit, snowshoe hare, jackrabbit, raccoon, lynx, red fox, gray fox, fisher, pine marten, opossum, badger, cougar, wolverine, muskrat, mink, otter, and beaver.
- 2.33: TAKING** means pursuing, shooting, killing, trapping, capturing, snaring, angling, spearing, netting wild animals or placing, setting, drawing or using a net, trap or other device to take wild animals. Taking includes the gathering or attempting the gathering of plants, attempting to take wild animals and assisting another person in taking or attempting to take wild animals or plants.
- 2.34: TRANSPORT/TRANSPORTATION** means causing or attempting to cause wild animals to be carried, or moved by any means whatsoever and includes acceptance or receiving wild animals for transportation or shipment.
- 2.35: TRIBAL MEMBER** means a person who is an enrolled member of the Minnesota Chippewa Tribe.
- 2.36: UNDER THE INFLUENCE/INTOXICATION** means the substantial impairment of the ability to hunt, fish, trap or gather in a reasonable, prudent and safe manner as a result of the introduction into the bodily system of any alcohol, intoxicating liquor or controlled substance, or any combination thereof.
- 2.37: UNPROTECTED BIRDS** means English sparrow, starling and common pigeon.
- 2.38: UNPROTECTED WILD ANIMALS** means weasel, coyote (brush wolf), gopher, porcupine, skunk, unprotected birds, and other fish and wildlife not protected by a restriction in the time or manner of taking.
- 2.39 WATERCRAFT** means any contrivance invented, used or designed for navigation on water.
- 2.40 WATER-RELATED EQUIPMENT** means a motor vehicle, aircraft, watercraft, dock, boat lift, raft, vessel, canoe, trailer, tool, implement, device, or any other associated equipment or container, including but not limited to portable bait containers, live wells, bilge areas, and water-hauling equipment that is capable of containing or transporting nonnative species or water.

### **SECTION III. DEPARTMENT OF NATURAL RESOURCES**

#### **3.01: BOIS FORTE DEPARTMENT OF NATURAL RESOURCES.**

The Bois Forte Department of Natural Resources (BFDNR) is a department of the Bois Forte Tribal Government with the following duties and powers:

- (A) Promote and protect the Treaty Rights reserved to the Band and its members, and ensure that members are not obstructed or interfered with while lawfully exercising such rights;

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- (B) Protect and conserve the natural resources of the Band through management, biological monitoring, research, and enhancement activities;
- (C) Issue permits and licenses for hunting, fishing, and land or water access, and collect costs for such, including registration of vessels and vehicles;
- (D) Represent the Band and its natural resource related interests on international, federal, tribal, state and inter-agency natural resource related boards, commissions, or organizations with the direction or concurrence of the Tribal Council;
- (E) Recommend to the Tribal Council policies and long-range programs for the management and preservation of fish, wildlife and other natural resources;
- (F) Under the direction of the Tribal Council, negotiate intergovernmental agreements, including but not limited to, cross-deputization agreements, with tribal, federal, state or local governments and their political subdivisions, and agreements with private entities, subject to Tribal Council approval;
- (G) Manage the Band's parks, campgrounds, wild areas, preserves, research areas, forests, docks, boat launches/access sites, or other similar natural or outdoor recreation areas;
- (H) Establish and implement natural resource related policies and regulations as may be necessary to carry out the duties, powers and responsibilities of this Code, subject to Tribal Council approval as may be required;
- (I) Enforce the Band's natural resource related laws, codes, regulations, rules, and policies;
- (J) Hire and employ appropriately trained and/or certified staff as may be necessary in accordance with the duties, powers and responsibilities of this Code;
- (K) Provide training to Band members in hunting safety and the safe handling of firearms, bows or other legal devices and safe use and maintenance of boats and other vehicles used to harvest resources; and,
- (L) Carry out such other duties and functions related to conservation or natural resources as the Tribal Council may direct.

**3.02: CONSERVATION ENFORCEMENT DIVISION.**

The Conservation Enforcement Division is an agency within the Department of Natural Resources responsible for the enforcement of Band laws and regulations concerning the protection of natural resources, such as hunting, fishing and gathering.

**(A) Duties and Powers.**

The Conservation Enforcement Division's duties and powers include:

- (1) Enforcement of this Code and all other Band codes, ordinances, regulations or other law related to conservation and natural resources;
- (2) Enforcement of applicable federal or state laws related to conservation and natural resources, insofar as Conservation Officers are authorized through Tribal Council approved deputization, special commissions, or inter-governmental agreements;
- (3) Promoting and protecting the Treaty rights of Band members;

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- (4) Requesting aid of other law enforcement agencies pursuant to cooperation agreements, when prudent to do so to address situations encountered in the course of carrying out duties; and,
- (5) To the extent that Division resources are reasonably available:
  - a. Providing aid or assistance, including in search and rescue operations, to other law enforcement and public safety agencies, upon lawful request of such agency;
  - b. Participating in emergency management activities; and,
  - c. Enforcement of the Band's general criminal and civil laws as necessary to protect the public safety.

**(B) Policies and Procedures.**

The Conservation Enforcement Division shall maintain and adhere to written Conservation enforcement policies and procedures as approved by the Director of the Department of Natural Resources and the Chief Conservation Officer, provided that such policies and procedures are consistent with this Code.

**3.03: TRIBAL CONSERVATION ENFORCEMENT OFFICERS**

**(A) Employment of Conservation Enforcement Officers.**

The Department shall employ Conservation Enforcement Officers to carry out the duties and functions of the Conservation Enforcement Division. Conservation Enforcement Officers are law enforcement officers of the Band, carrying out the duties provided in Section 3.02, and possessing all of the privileges, powers and immunities of any such officer.

**(B) Chief Conservation Enforcement Officer**

The Chief Conservation Enforcement Officer, in coordination with the Director of the Department of Natural Resources, shall be responsible for ensuring that officers are trained as required by this Code, that Conservation Enforcement policies are updated as necessary, and that standards and policies are established for continuing training and qualifications of active Conservation Enforcement Officers, among other duties as may be assigned.

**(C) Eligibility and Qualifications for Hiring as Conservation Officer.**

- (1) A person selected to become an Officer shall meet and maintain the following minimum requirements:
  - a. Have legal residency in the United States;
  - b. Be 21 years of age or older before taking their oath of office;
  - c. Achieved an associate degree or higher from an accredited educational institution;
  - d. Have no felony convictions in any tribal, state, or federal jurisdiction;
  - e. Have never been convicted of a misdemeanor of domestic violence in any Tribal, state, federal, or foreign jurisdiction;
  - f. Have never been convicted of or otherwise found in violation of any provisions of Bois Forte Conservation Code;
  - g. Possess good judgment and character as determined by interview assessments and a comprehensive background investigation covering school and employment

records, with consideration given to a history of, and circumstances pertaining to, all law violations, including traffic and conservation law convictions, as indicating lack of good moral character;

- h. Possess a valid motor vehicle operator's license;
  - i. Read and write at a level necessary to perform the job of an Officer;
  - j. Pass a pre-employment drug test screening for controlled substances;
  - k. Successfully complete the basic law enforcement training recognized by the Band including such academy or programs of the United States Indian Police Academy, State of Minnesota, a POST agency in another state, or a federally operated law enforcement academy (this requirement may be completed post-hire within a deadline set by the Director of the Department of Natural Resources);
  - l. Pass pre-enrollment physical fitness test.
- (2) Additional Qualifications. In addition to the minimum requirements identified in Section 3.03(C)(1), the person or persons responsible for hiring officers may consider any other factors required or desired of applicants that persons responsible for hiring deem relevant to performing the duties of Conservation Enforcement Officer, but only if the persons disclose such factors in the posting of the position or in an employment description that is made available to potential applicants.

**(D) Indian Preference**

The person or persons responsible for hiring officers may apply Indian preference in Conservation Enforcement Officer recruitment and hiring, but shall not otherwise consider or discriminate on the basis of race, ethnicity, religion, gender, or sexual orientation in any hiring decision.

**(E) Continuing Qualifications**

- (1) Officers must maintain an acceptable level of physical and mental fitness and readiness during the term of their employment. Officer fitness shall be periodically evaluated during employment under standards and conditions to be established by the Director of the Department of Natural Resources.
- (2) Officers must complete training sufficient to maintain their certification as law enforcement officers, and no less than 40 hours of POST training each calendar year.
- (3) Officers shall be subject to testing for use of illegal drugs. Such testing shall be carried out every six months at the discretion of the Director of the Department of Natural Resources.

**(F) Oath of Office**

Officers shall be sworn in by a Tribal judge to support, uphold, and defend the Constitution of the Minnesota Chippewa Tribe and to enforce the laws and regulations of the Band in accordance with this Code.

**(G) Firearms**

- (1) Officers are authorized to carry firearms in the performance of their duties and are required to qualify semi-annually, with a score of 80% (240) or better, under the

direction of a certified firearms instructor in accordance with Federal Law Enforcement Training Center firearm standards.

- (2) The Department shall establish policies for:
  - a. The types of firearms that Officers are authorized to carry;
  - b. Issuance of firearms to Officers;
  - c. The circumstances when Officers are required, allowed, or prohibited to carry firearms in the performance of their duties; and,
  - d. Storage and maintenance of firearms carried by Officers in the performance of their duties.

#### **(H) Conservation Enforcement Officers' Legal Authority**

Officers shall have the following authority in their enforcement of criminal and civil violations within the jurisdiction of the Band:

- (1) Execute any process for enforcement of this Code and any other natural resource, regulations or laws of the Band;
- (2) Issue citations for violations of this Code and any other natural resource regulations or laws of the Band;
- (3) Per Bois Forte Resolution No. 80-98, assist in the enforcement of criminal laws of the Band consistent with any agreement entered into between BFDNR and the Bureau of Indian Affairs law enforcement and approved by the Tribal Council;
- (4) Serve subpoenas or other legal documents issued in matters arising under this Code and any other natural resource regulations or laws of the Band;
- (5) Execute searches, with or without a warrant consistent with applicable law, for matters arising under this Code and any other natural resource regulations or laws in accordance with the provisions below.
  - a. An Officer may search an object, place or person whose conduct is regulated by this Code and/or any other natural resource regulations or laws of the Band, and may seize contraband items or articles of evidence when the search is made:
    - i. With consent of the person being searched, or, for objects or places, from a person with authority to allow access to the object or place;
    - ii. Pursuant to a valid search warrant;
    - iii. Incident to the issuance of a lawfully issued citation;
    - iv. With the authority and within the scope of a right of lawful inspection; or
    - v. As otherwise authorized by law or by provisions of this Code.
  - b. Any Officer may conduct routine inspections, in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities, of vessels, boats, wagons, trailers, automobiles, snowmobiles, off-road vehicles, as well as any containers, packages, and other receptacles contained therein, utilized by a person in an activity authorized by this Code.

- c. If an Officer has probable cause to believe that contraband, fish, vegetation, wildlife, or parts thereof, taken in violation of this Code or other natural resource statutes, laws or regulations, or the instrumentalities of such illegal taking, are contained therein, the Officer may, without a search warrant, search any person, aircraft, watercraft, motorized vehicle, box, wildlife, fish, bag, locker, tool box, ice chest, camper, camper shell, trailer, backpack, bedroll, sleeping bag, or other container or package.
  - d. If an Officer has probable cause to believe wildlife or parts have been taken, possessed, or transported in violation of this and/or other natural resource codes, and that any object has been used as the instrumentality of such illegal taking, the Officer may inspect all such wildlife, parts or objects, and may seize them as evidence.
  - e. For all property seized, the Officer shall make an inventory and provide a copy to the person from whom the property was taken. All property seized shall be stored, returned and/or disposed of pursuant to policy.
- (6) Any Officer who has reasonable grounds to believe that a person has violated this Code or any other natural resource regulations or laws of the Band, either in or out of the Officer's presence, shall identify himself or herself to such person and promptly determine whether the person is a Band member or non-member Indian, or non-Indian. In making such determination, the Officer may demand identification and take actions as the Officer reasonably believes are necessary to make the determination.
- (7) If an Officer reasonably suspects that the operator or passenger of a boat or vehicle has committed a violation of law or regulation, or that the boat or vehicle has been used in connection with a violation of law or regulation, then the Officer may stop and board any boat, and stop any vehicle.
- (8) If an Officer has probable cause to believe that any provision this Code or any other natural resource regulations or laws of the Band have been violated, the Officer may enter into or upon any private or public property for the purpose of patrolling, investigating, or examining the violation. The term "private property" as used in this section does not include dwellings or dwelling houses or that which is within the curtilage of any dwelling house.

**(I) Use of Force**

- (1) Officers are authorized to use force only as necessary, reasonable and appropriate to protect the Officer or others from an immediate threat of death or serious physical injury; or, to carry out or achieve any other lawful objective for which the use of force may be authorized.
- (2) Reporting Use of Force. A written report shall be required for each of the following situations:
  - a. When a firearm is drawn or discharged outside of authorized firearms training or practice;
  - b. When any non-lethal weapon is used; or
  - c. When any use of force results in death or injury.

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- (3) Investigation. Upon the occurrence of any of the following events, an officer shall notify the Director of the Department of Natural Resources:
  - a. When a subject communicates that an injury has been inflicted by an officer,
  - b. When a firearm is discharged as a means of force in the officer's presence,
  - c. When use of force results in death or injury.
- (4) Administrative Review. All reported incidents of use of force by an Officer shall be reviewed by the Executive Director to determine whether:
  - a. Any laws or departmental policies were violated;
  - b. The relevant policy governing use of force was clearly understandable and effective to cover the situation; and,
  - c. The Officer's training was adequate to deal with the situation.
- (5) All incidents involving the use of force that causes death shall be subject to both an administrative and criminal investigation.
- (6) Annual Report. An annual summary of incidents involving the use of force will be prepared and submitted to the Tribal Council on an annual basis.

#### **SECTION IV. BIG GAME HUNTING**

- 4.01: SEASONS AND LIMITS; RULES.** The Conservation Committee may set seasons, limits, and methods for the taking of each species of big game by rule making under Section 11.13.
- 4.02: METHOD OF TAKING.** Big game shall be taken only by means of firearm or bow and arrow. The Conservation Committee may, by publish rule or regulation, restrict the type of firearm and/or ammunition used to take big game.
- 4.03: SHINING.** Taking moose and bear by shining shall be unlawful. The season, time, place and manner of taking deer by shining shall be set by the Conservation Committee by rule making.
- 4.04: NON-BAND MEMBERS.** Except as provided in Section 10.11 and 10.12, it shall be unlawful for non-Indians and non-Band member Indians to hunt big game without a valid Band permit in possession.
- 4.05: TAGS.** It shall be unlawful to transport big game taken within the Reservation without a valid Tag being affixed to the carcass.
- 4.06: DOGS.** It shall be unlawful to use dogs to take big game.
- 4.07: SALE.** It shall be unlawful to engage in the sale or other commercial use of edible big game.
- 4.08: TAKING OF MOOSE FOR ELDERLY NUTRITION PROGRAM.** The taking of moose for the Bois Forte Elderly Nutrition Program shall be done exclusively by Bois Forte Conservation Officers who are Band members, consistent with all applicable rules established by the Conservation Committee.

### **SECTION V. FISHING**

- 5.01: SEASONS, LIMITS, METHODS, RULES.** The Conservation Committee may set seasons, limits, and methods for the taking of various species of fish by rule making under Section 11.13.
- 5.02: PROHIBITION OF COMMERCIAL USE.** It shall be unlawful to release any rough fish into the waters of the Reservation.
- 5.03: ROUGH FISH-NO RELEASE.** It shall be unlawful to release any rough fish into the waters of the Reservation.

### **SECTION VI. RICING**

- 6.01: SEASONS.** The Conservation Committee, in consultation with its elder advisors, shall establish the season each year for ricing and shall use all reasonable efforts to make the same publicly known. The ricing season may be established without compliance with the requirements of Section 11.13.
- 6.02: GREEN RICE.** It shall be unlawful for any person to sell or to possess with the intent to sell, green rice for the purpose of reseeding without the express approval of the Tribal Council.
- 6.03: LIMITATIONS; RESIDENT TRIBAL MEMBERS**

Subd. 1 Resident Tribal Members will be assessed a higher permit fee than Bois Forte Band Members.

Subd. 2 Resident Tribal Members must be accompanied by a Bois Forte Band Member when ricing.

Subd. 3 Resident Tribal Rice permits shall be valid beginning on the first actual harvesting day of season.

**6.04: LIMITATIONS; SPECIAL RICE PERMITS**

Subd. 1 Persons holding a Special Rice Permit must be accompanied by a Bois Forte Band member when ricing.

Subd. 2. Special Rice Permits shall only be valid beginning on the fourth actual harvesting day of season.

- 6.05: RULES.** The Conservation Committee may, by rule making under Section 11.13, establish limitations on equipment that may be used for ricing, the classification of permits, fees for permits, and other matters regarding wild rice harvest. Those rules shall include a provision which limits the length of ricing sticks to thirty-two inches (32”), a diameter of not more than one inch (1”) at any point, a weight of not more than sixteen ounces (16 oz), and a shape that is cylindrical or conical.

### **SECTION VII. GAME BIRDS**

- 7.01: SEASONS AND LIMITS.** The Conservation Committee may set seasons and limits for the taking of various species of game birds by rule making under Section 11.13.

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- 7.02: NON-BAND MEMBERS.** It shall be unlawful for non-Indians and non-Band member Indians to hunt or take game birds without a validly issued permit (and without being accompanied by either a licensed Guide or a Band member as the permit may require).
- 7.03: LEAD SHOT.** It shall be unlawful to possess or use lead shot for the purpose of taking any migratory game bird or to possess or use lead shot for any purpose on or near the waters of the Reservation, including boat landings and the shorelines.
- 7.04: HUNTING MIGRATORY GAME BIRDS WITH NON-INDIANS.** Non-Indian persons hunting migratory game birds within the Bois Forte Reservation are subject to the following requirements:
- Subd. 1. Guide Qualifications. Non-Indian and non-resident tribal members must, in addition to possessing the Bois Forte Daily Hunting Permit, be accompanied by a guide who is a Band member or Resident tribal member.
  - Subd. 2. Guides. No more than three (3) hunters per guide.
  - Subd. 3. Limits. Guides and their guided duck hunters shall be subject to State and Federal Regulations.

#### **SECTION VIII. TRAPPING**

- 8.01: TRAP SETTING AND TENDING.** A person may set or tend traps anytime, day or night. A trap may not be left unattended for more than three (3) consecutive days.
- 8.02: TRAP TAMPERING**
- Subd. 1. Except as set forth in Subd 2., no person may remove or tamper with a trap legally set to take fur-bearing animals or unprotected species without the written authorization of the trapper, owner or occupant lessee of the land where the trap is located.
  - Subd. 2. A trapper may authorize, in writing, another licensed Band member who possesses all necessary licenses to tend traps set by trapper, including resetting the trap at the same set. That person must remove trapped animals and is subject to the tending requirement for Section 8.01.
- 8.03: EQUIPMENT IDENTIFICATION.** A person may not set traps unless the permittee's name and permit numbers, if any, are stamped or engraved on a metal tag at least 5/8" by 2" and not thinner than 30 gauge. If any trapper prefers, he may engrave his name and driver's license number (or other identifying number) on the trap.
- 8.04: TAGGING.** It is unlawful to affix Bois Forte tags on furs taken outside the territory of the Band as described in Section 1.04.

#### **SECTION IX. SPECIAL PERMITS**

- 9.01: PERMITS.** Special (hunting/ricing/gathering) permits may be issued by the Bois Forte Tribal Council or its designee as follows, in order of priority.

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First. Resident members of federally-recognized tribes (other than the Minnesota Chippewa Tribe) and resident members of Canadian First Nations with an historical tie to the Bois Forte Band.

Second. Non-Resident members of a federally-recognized tribe and Canadian First Nations who have a special tie to the Bois Forte Band through membership spouse, parent, child, or family member.

**9.02: APPLICATION.** Applications for Special Permits must be submitted to the Bois Forte Tribal Council or its designee on a schedule established by the Bois Forte DNR. Permits will be issued on the priorities in 9.01, above.

**9.03: LIMITATIONS.**

9.03A. Persons holding Special Permits must be accompanied by a Bois Forte Band member whenever engaging in the permitted activity.

9.03B. No more than ten (10) Special Permits may be issued for a given activity in any calendar year. When there are more than ten applications for an activity in a given year, unsuccessful applicants who apply in the following year will be given preference within the priority group.

9.03C. Holders of Special Permits are deemed to have lawful authority or permission to go upon lands owned or controlled by the Band for the purpose specified in the permit.

9.03D. No Special Permits may be issued for hunting moose or for shining deer.

9.03E. Persons holding Special Permits shall consent to the jurisdiction of the Band as a condition of receiving the permit.

## **SECTION X. GENERALLY PROHIBITED ACTS**

**10.01: VIOLATIONS.** The commission of unlawful acts in violation of this Code or of published rules and regulations of the Conservation Committee shall give rise to a civil action on behalf of the Band against the alleged violator and shall be in addition to any criminal proceeding which maybe commenced pursuant to this Code, other Band law, or federal law.

**10.02: CEREMONIAL TAKE.** With prior written approval from the Bois Forte DNR, it shall be unlawful to take any species of wildlife outside of the seasons established by the Committee for ceremonial purposes. Applications for ceremonial take shall be submitted to the BFDNR.

**10.03: SEASONS.** It shall be unlawful to take any species of wildlife, fish, or plants outside of the season established by the Committee for such species.

**10.04: LIMITS.** It shall be unlawful for any person to possess any fish or game in excess of the daily or possession limits for such species.

**10.05: PERMITS.** It shall be unlawful for any persons to take or attempt to take wildlife or gather plants without the person being in possession of a valid permit for that purpose whenever a permit is required by the Code or Rule.

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- 10.06: USE OF PROHIBITED MEANS OR EQUIPMENT.** It shall be unlawful to take any fish, wildlife or plants by means and equipment prohibited herein, or prohibited by rules and of the Committee, or to use electronic communication systems prohibited by federal law applicable to the Reservation.
- 10.07: ARTIFICIAL LIGHTS.** It shall be unlawful to use a torch, spotlight, or artificial light, to take any species of fish or wildlife unless a season for the same has been established by the Committee and said use of torch, spotlight, or artificial light conforms to the times, place, species, seasons, methods, and rules established by the Committee.
- 10.08: BAIT.** It shall be unlawful to use any protected wildlife or any edible part thereof as bait.
- 10.09: SHOOTING FROM A MOTOR VEHICLE.** It shall be unlawful to possess a loaded firearm within or on any moving vehicle. The discharge of a firearm from a stationary vehicle is limited to persons possessing a Bois Forte hunting permit issued by the BFDNR. It shall be unlawful for a Bois Forte permittee to possess unloaded or uncased firearms in a motor vehicle. Except as provided above, motor vehicles shall not be used to take any wildlife.
- 10.10: PUBLIC SAFETY RESTRICTIONS.** It shall be unlawful to violate any of the following public safety provisions.
- Subd. 1. The setting of any trap, pit, deadfall or snare capable of taking big game is prohibited.
- Subd. 2. The possession and placing of set guns and the possession and use of poison, explosives, stupefying substances or devices for the taking of any wild animal is prohibited except as they may be conducted under the supervision of the BFDNR.
- Subd. 3. Firearms shall not be discharged for the purpose of hunting within the residential area; within 500 feet of any school, clinic, community center, public building, resort casino, or marina; or across, along or near public roads and highways; or within any area designated by this Code, rule or regulation as a "No Hunting" area.
- Subd. 4. Any person under the age of sixteen (16) years of age who hunts with a firearm must have in his/her possession a valid Firearm Safety Certificate issued by the BFDNR, the 1854 Authority, or State of Minnesota. Persons under fourteen (14) years of age must also be accompanied by a parent/guardian or a responsible adult relative while hunting.
- 10.11: NON-BAND MEMBER INDIANS.** Other than on fee lands with the consent of the owner, it shall be unlawful for a non-Band member Indian to hunt, fish, trap or gather within the Reservation boundaries without a properly issued and displayed Band permit, and without being accompanied by a Band member.
- 10.12: NON-INDIANS.** Other than on private (fee) lands with the consent of the owner, it shall be unlawful for a non-Indian to hunt, fish, trap or gather within the Reservation boundaries without properly issued and displayed Band permit and, if so required, a Band-licensed guide.
- 10.13: PROTECTIVE CLOTHING.** It shall be unlawful to hunt big game unless the hunter's hat and outer clothing above the waist are at least 50% blaze orange.

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- 10.14: GAME REFUGES AND PROTECTED PLANT AREAS.** It shall be unlawful to take any fish, wildlife, or plant within a game refuge or a protected plant area, including experimental wild rice areas, as established by the Tribal Council or its designee.
- 10.15: TRANSPORTATION OF FISH AND WILDLIFE.** It shall be unlawful to transport off the Reservation game, fish, hides or furs taken within the Reservation without a valid permit or transportation tag issued by the BFDNR unless the same was taken on private (fee) land in which event the person possessing the game, fish, hides or fur must have a valid permit or tag issued by the Minnesota DNR.
- 10.16: RESERVED.**
- 10.17: FEDERALLY LISTED ENDANGERED AND THREATENED SPECIES.** It shall be unlawful for any person to fail to comply with applicable provisions of the Federal Endangered Species Act of 1973, as amended.
- 10.18: WASTE AND LITTERING.** The unnecessary waste, injury, or destruction of wild animals or other natural resources while engaging in activities regulated by this Code is prohibited. It shall be unlawful to leave or discard cans, bottles, refuse or other waste or debris on Tribal lands. Nothing in this Section shall be construed to repeal, modify, or amend Band ordinance concerning Clean Air, Clean Water or Solid Waste Disposal.
- 10.19: GUIDES/LICENSES.** It shall be unlawful for any person other than a Band or Resident tribal member to act as a guide for a hunting party that includes non-Indians or for any such person to charge or collect a fee for guiding. The Committee may establish rules and regulations for licensing of guides and establish a fee for the license which shall be issued by the BFDNR.
- 10.20: ALLOWING ANOTHER.** It shall be unlawful for any person to allow another person to unlawfully hunt, take, possess, or transport fish and wildlife, for any person to allow another to use or possess his/her license, tag, or permit, or for anyone to use or possess a license, tag, or permit of another, provided, however, that this provision shall not apply if the BFDNR has issued a permit jointly to a disabled or elderly person and a person designated to take fish and wildlife on behalf of such disabled or elderly person.
- 10.21: REFUSAL TO DISPLAY.** It shall be unlawful for any person to refuse to display a proper permit, tag, license or other identification upon the request of a law enforcement officer or, for purposes of harvesting rice, a Rice Committee member.
- 10.22: FRAUD/MISREPRESENTATION.** It shall be unlawful to give false information for the purpose of obtaining a permit, tag, or license.
- 10.23: INTOXICATION.** It shall be unlawful for any person to hunt, fish, trap, or gather wildlife or plants on the Reservation while intoxicated or under the influence of alcohol, intoxicating liquors, or any controlled substance.
- 10.24: WANTON WASTE AND DESTRUCTION.** It shall be unlawful to willfully, wantonly, or maliciously waste or destroy any protected fish, wildlife or plants on the Reservation.

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**10.25: TRESPASS.** It shall be unlawful to: (i) enter, without lawful authority, upon the Band’s Territory after having been forbidden to do so by an authorized agent or representative of the Band, or after being asked to leave said Territory refuse to do so without lawful excuse; (ii) enter, without lawful authority, upon any of the Band’s Territory which is posted with signage stating “No Trespassing” or similar language, provided such signage is conspicuous posted and located at the public access points to such Territory, on any road, trail, or other pedestrian or vehicle pathway through such Territory designated by parcel identification, or along the boundaries of such Territory; or (iii) enter, without lawful authority, the Band’s Territory through any location which is not a public access point. For purposes of this section only, “public access point” shall mean any public road or highway, public rights-of-way or easements, trailheads or access corridors dedicated for public use by the Band, or any other access point designated by the Band. The following shall not serve as a defense to prosecution for a violation of this section: (i) lack of knowledge of the boundaries of the Band’s Territory; (ii) lack of knowledge of one’s physical presence within the Band’s Territory; or (iii) reliance on incorrect or outdated maps, GPS technology, or other information depicting the boundaries or ownership status of the Band’s Territory.

## **SECTION XI. ADMINISTRATION**

**11.01: AUTHORIZATION.** The laws of the Band relating to the conservation and management of its fish and wildlife resources shall be administered by the BFDNR under the active oversight of the Conservation Committee (herein call the “Committee”).

**11.02: COMPOSITION.** The Committee shall be comprised of seven (7) members of the Band who reside in the territory described in Section 1.04, and who have been or shall be appointed by the Tribal Council as follows:

(a) Seven (7) band members to serve four (4) year terms where the terms will be staggered two (2) years apart.

A Band member is not eligible for appointment to the Committee if he or she has ever been convicted of or otherwise found in violation of any provisions of the Bois Forte Conservation Code (which does not include the Bois Forte Regulation of Domestic Animals Ordinance).

**11.03: ADVISORY MEMBERS.** In addition, there shall be two (2) elders, a Tribal Council member and a Band Conservation Officer appointed by the Tribal Council as non-voting advisors and who shall serve at the Council’s pleasure.

**11.04: VACANCIES.** Vacancies caused by a Committee member’s death, resignation, removal, or inability to serve shall be filled by appointment of the Tribal Council and serve the balance of the unexpired term of the vacant position.

**11.05: COMMITTEE OFFICERS.** A Chairperson, Vice-Chairperson and a Secretary/Treasurer shall be elected by a majority vote of the Committee from those Band members appointed by the Tribal Council.

**11.06: SUB-COMMITTEES.** The committee may establish such sub-committees as from time to time may be necessary and designate a chairperson and vice-chairperson for each sub-committee.

**11.07: MEETINGS.**

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- a) The Committee shall meet at least quarterly on the third (3<sup>rd</sup>) Wednesday of March, June, September, and December of each year at the Band's Tribal Offices unless the time and place is established by the Committee at a meeting or by notice which complies with Subd. (d) below.
- b) Special meeting of the Committee may be called from time to time by either the Chairperson or a majority vote of a Committee quorum.
- c) Sub-Committee meeting may be called by the sub-committee Chairperson whenever necessary.
- d) Five (5) days advance written notice of all committee meetings shall be provided to all Committee members, to the Reservation Tribal Council, and shall be publicly posted, provided that no such notice shall be required during the ricing season. A member may orally or in writing waive notice of a meeting and attendance at a meeting constitutes waiver of notice. All meetings shall be conducted under Robert's Rules of Order.
- e) The Reservation Tribal Council shall by resolution dictate the compensation to members for attending meetings.

**11.08: MINUTES.** The Secretary/Treasurer shall cause minutes of all Committee meetings to be prepared and furnished to all Committee members no later than five (5) days prior to the next meeting.

**11.09: QUORUM.** Four (4) members of the Committee shall constitute a quorum for the conduct of business. The Committee shall establish the quorum for each sub-committee.

**11.10: REMOVAL.** Committee members may be removed by the Tribal Council for cause, including unexcused failure to attend three (3) consecutive meetings, a Tribal Court conviction or judgment arising from an alleged violation of the Conservation Code or such other conduct as the Tribal Council determines impairs the member's ability to fulfill his/her responsibilities under this Code, including violation of the Bois Forte Band Code of Ethics.

**11.11: DUTIES AND RESPONSIBILITIES.** The Committee shall have the duty and responsibility to oversee the protection and management of the Band's fish and wildlife resources; to advise BFDNR regarding the implementation of policies; to report to the Tribal Council any perceived progress, deficiencies, needs and changes in status of resources; to recommend to the Tribal Council the adoption, modification or repeal of conservation ordinances; and to report back upon any conservation matter as requested by the Tribal Council.

**11.12: POWERS.** The Conservation Committee shall have the following general powers:

Subd. 1. RULES AND REGULATION. The Committee is empowered to propose, publish, seek and consider public comments on and finalize such written rules and regulations as it deems necessary to implement the provisions of this Code. Nothing herein shall prevent the Tribal Council from subsequently rescinding, modifying or replacing any such rule or regulation.

Subd. 2. SEASONS. The Committee shall set hunting, fishing, trapping, and gathering season limits, methods, and lawful hours, including seasons for shining of certain game. Each season shall be established at least thirty (30) days prior to its commencement either at a quarterly or a special meeting of the Committee.

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Subd. 3. LIMITS. The Committee shall set seasonal, daily and possession limits whenever appropriate, subject to any federal laws. Such limits shall be established at least thirty (30) days prior to the effective date either by quarterly or a special meeting of the Committee.

Subd. 4. LICENSING, TAGS, AND PERMITS. The Committee shall determine the necessity for requiring hunting, fishing, trapping, gathering, and guiding licenses, tags, and permits; set fees, if any, for the same; establish the criteria for persons to obtain the same which shall be issued by the BFDNR; and shall establish written procedures for the collection of license, tag, and permit fees, if any. The BFDNR shall issue licenses, tags, or permits required by this Code or rules adopted by the Committee. In the event the Committee establishes eligibility criteria for any permit for which the fee is waived or reduced, the burden is on the applicant to demonstrate eligibility, and in the absence of satisfactory proof, the applicant shall pay the full fee for the permit.

- 11.13: RULE MAKING.** The Committee may propose rules and regulations governing any activity within its jurisdiction. Proposed rules shall be posted or published for the public comment for at least thirty (30) days. The Committee shall consider all public comments received and issue a final rule not less than thirty (30) days prior to the beginning of the season to which the rule applies.
- 11.14. EMERGENCY RULES.** The Committee may adopt emergency rules for the purpose of protecting any fish and wildlife resources from irreparable harm. Emergency rules may be adopted without regard to the requirements of Section 11.13 and shall be made available to the public by posting or publication.
- 11.15 ANNUAL REVIEW.** The Committee shall review this Code and all rules adopted pursuant to it on an annual basis and propose such amendments as it deems necessary.

## **SECTION XII GENERAL ENFORCEMENT PROVISIONS**

- 12.01: JURISDICTION.** The Bois Forte Tribal Court shall have jurisdiction over alleged violations of this Code and all claims for damages or other relief arising from the enforcement of its provisions.
- 12.02: CONSENT.** Any person who takes any fish or wildlife, who transports any fish and wildlife on the Reservation, or violates any provision of Section XIV shall be deemed to have consented to the jurisdiction of the Band and to the provisions of this Code.
- 12.03: NOTICE AND POSTING.** Signs shall be conspicuously posted, putting the public on notice that hunting, fishing, trapping, or gathering activities with the Reservation is governed by the Band laws.
- 12.04: ENFORCEMENT.** BFDNR Conservation Officers are authorized to enforce this Code, and may be assisted in enforcement by officers of such other law enforcement agencies as the Tribal Council may authorize by agreement.
- 12.05: CONTEMPT POWERS.** Parties to actions brought under this Code, whether Band members or not, shall be subject to the civil contempt power of the Bois Forte Tribal Court, and may be sanctioned by any means provided for in the Bois Forte Tribal Code.

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**12.06: FEDERAL PROSECUTION.** Nothing in this Code shall preclude the federal prosecution of any persons committing acts in violation of this Code which may also violate federal laws.

**12.07: CIVIL REMEDY.** Except as provided in Section 12.08 herein, all violations of this Code shall be deemed civil in nature and the following remedies may be sought on behalf of the Band.

Subd. 1. EXPULSION. Persons found to have violated this Code shall be subject to exclusion and removal as provided in the Bois Forte Tribal Code.

Subd. 2. REVOCAION OR SUSPENSION OF PRIVILEGES. A person's privileges to hunt, fish, trap, or gather fish and wildlife on the Reservation may be suspended or revoked in the following circumstances:

- a) By the BFDNR pending final resolution of any proceeding in the Bois Forte Tribal Court arising from such violation.
  - i. Persons who harvest wild rice without a valid permit or fail to abide by limitations or ricing hours or any other regulations shall be prohibited from gathering wild rice on the next day ricing is permitted.
  - ii. Persons who violate subsection (i) above shall forfeit to the Band all wild rice harvested on the day of violation; and equipment used in the violation shall be subject to forfeiture as in Subd. 5, below.
- b) By the Tribal Court upon a finding that the violation did in fact occur, provided that the period or revocation or suspension shall not exceed five (5) years.

Subd. 3. DAMAGES. The Band may seek money damages in an amount that provides restitution to the Band for the damages caused by each violator of this Code. In determining damages, the Tribal Court shall consider, but not limited to:

- A. The cost to the Band of producing and/or protecting the resource;
- B. The cost or replacing or restoring the resource;
- C. The general overall cost of enforcement, excluding court costs;
- D. The loss to the Band of license or permit revenue, and
- E. Damages for trespass, if applicable.

Subd. 4. PUNITIVE DAMAGES. Nothing in this Code shall be deemed to preclude the Band from seeking and being awarded punitive damage in any action for a violation of this Code wherein it is alleged that the violator has committed the acts constituting the violation wantonly, willfully, or maliciously. In assessing punitive damages, the Court shall determine their amount in the same manner in which it would determine punitive damages in any other civil action.

Subd. 5. FORFEITURE. The Court, upon determining that a violation has taken place and in addition to any other remedy or sanction imposed, may order any firearm, motor vehicle, watercraft or other equipment used in the commission of the violation to be forfeited to the Band and any fish and wildlife taken in violation of this Code shall also be forfeited.

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Subd. 6. COURT COSTS. In addition to any other remedies provided by this Code, the Court may impose costs of \$50.00 for civil trials upon any defendant found to have violated this Code.

Subd. 7. COURT REMEDIAL FORFEITURES/SCHEDULE. The Tribal Court, in consultation with the Committee and the Tribal Council, may adopt a schedule of civil remedial forfeitures to be imposed by the Court upon the receipt of an admission that a civil violation of this Code occurred, or a plea of no contest, which may be done either in person or in writing. This schedule shall not bind the Court where the defendant has entered a denial to the citation or civil complaint.

**12.08: CRIMINAL PROCEEDINGS.** In addition to any other remedies provided by this Code, criminal proceedings may be initiated in the Bois Forte Tribal Court against any Indian alleged to have violated either of the following subdivisions:

Subd. 1. WANTON WASTE AND DESTRUCTION. It shall be unlawful to willfully, wantonly, and maliciously waste or destroy any protected fish, wildlife, or plants on the Reservation.

- A. Any Indian convicted of a violation of Section 12.08, Subd. 1, may be sentenced to a period of incarceration not exceeding ninety (90) days, or the imposition of a fine not exceeding \$750.00, or both.
- B. Any Indian convicted of a violation of Section 12.08, Subd. 1, and who, within two (2) years prior to the date of the alleged offense, has been criminally charged and convicted of a similar violation may, upon the second or any subsequent conviction, be sentenced to a period of incarceration not exceeding one (1) year, or the imposition of a fine not exceeding \$5,000.00, or both.

Subd. 2. HUNTING WHILE UNDER THE INFLUENCE. It shall be unlawful to take fish and wildlife on the Reservation while intoxicated or under the influence of alcohol, intoxicating liquors or any controlled substance.

- A. Any Indian convicted of a violation of Section 12.08, Subd. 2, may be sentenced to a period of incarceration not exceeding ninety (90) days, or the imposition of a fine not exceeding \$500.00, or both.
- B. Any Indian convicted of a violation of Section 12.08, Subd. 2, and who, within two (2) years to the date of the alleged offense has been criminally charged and convicted of a similar violation may, upon the second or any subsequent conviction, be sentenced to a period of incarceration not exceeding one (1) year, or the imposition of a fine not exceeding \$5,000.00, or both.
- C. Any person criminally convicted of a violation of Section 12.08, Subd. 2, and who, at the time of the commission of the violation, was involved in an accident resulting in serious bodily injury or death to another person, and which the accident was due in whole or in part, to the negligence of the person so convicted, may be sentenced to a period of incarceration not exceeding one (1) year, or the imposition of a fine not exceeding \$5,000.00, or both.

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- D. A blood alcohol concentration of, or in excess of, 0.08 as measured by either a breath or blood test within two (2) hours of the alleged violation shall be prima facie evidence of intoxication.

**12.09: RIGHTS OF DEFENDANTS.**

Subd. 1. CIVIL PROCEEDINGS. A defendant in a civil proceeding under this Code shall have the right to:

- A. Notice to all hearings;
- B. Notice prior to trial of the names and addresses of all plaintiff's witness intended to be called at trial and to receive copies of any factual data or reports which may be submitted by plaintiff at trial;
- C. Representation at defendant's expense by legal counsel of defendant's choice, provided said legal counsel is admitted to practice before the Bois Forte Tribal Court;
- D. The right to cross-examine all witnesses at trial;
- E. The right to call witnesses and present evidence;
- F. The right to obtain subpoenas from Tribal Court requiring any such witness to appear and give testimony and to produce any relevant and material evidence in their possession;
- G. The right to participate in discovery proceedings as set forth in the Tribal Court's Rules of Civil Procedure.

**SECTION XIII. SPECIAL ENFORCEMENT PROCEDURES.**

**13.01: WARRANTLESS SEARCH.** Any law enforcement officer authorized to enforce this Code, may, without a search warrant, search any aircraft, watercraft, motor vehicle, camper, camper shell, trailer, box, game bag, locker, toolbox, ice chest, backpack, bedroll, sleeping bag, or other container or package, for fish, wildlife, plants, or parts thereof, taken in violation of this Code if the officer has probable cause to believe that a violation has, in fact, occurred and that the item to be searched contains evidence of such illegal taking. This section shall not be construed to permit the warrantless, nonconsensual search of any non-mobile dwelling house or any outbuilding.

**13.02: INSPECTION.** Any law enforcement officer may inspect all fish and wildlife taken, possessed, or transported on the Reservation.

**13.03: SEARCH WARRANTS.** Upon proper application and in accordance with the procedures in the Bois Forte Tribal Code, the Tribal Court may issue a search warrant for evidence of a violation of this Code.

**13.04: SEIZURE.**

Subd. 1. EVIDENCE. Any law enforcement officer may seize as evidence any fish, wildlife, plants, or parts thereof which the officer has probable cause to believe has been taken, possessed, or transported in violation of this Code and, also, any object which the officer

has probable cause to believe has been used in such illegal taking, possession, or transportation.

Subd. 2. NOTICE. Notice of seizure, on a form provided by the BFDNR and approved by the Tribal Court, and a citation for illegal taking, possession, or transportation shall be issued by the officer at the time of seizure, and citation, shall also be served upon such owner.

Subd. 3. HEARING, FORFEITURE. If, upon trial or hearing, the Court determines that the seized property has been used or taken in violation of this Code and the violator is the owner thereof, the Court may order, in addition to any sanction imposed for the violation, that the property be forfeited to the Band for;

- A. Official Band use;
- B. Donation or loan for scientific, educational, or public display purposes;
- C. Sale; or
- D. Destruction

Subd. 4. PROPERTY OWNER IS NOT THE VIOLATOR. Where the owner of the seized property is one other than the violator and the notice seizure and citation have been served upon the owner and the Court determines, upon trial or hearing at which the owner has been afforded the opportunity to be heard, that the seized property has been illegally used or prepossessed and further, finding no lawful reason exists to so otherwise, the Court may order said property to be forfeited to the Band and disposed of as provided in 13.03 Subd. 3.

**13.05: CITATIONS.** Any law enforcement officer may issue a citation to an alleged violator. The citation shall have the effect of and serve as a Summons and Complaint.

Subd. 1. MINIMUM REQUIREMENTS. The citation shall include, at a minimum:

- A. The name, address and tribal affiliation (if any and if known) of the alleged violator;
- B. The date, time and place of the alleged violation(s);
- C. The specific offense charged;
- D. The date, time and place that the alleged violator is to appear at court and the consequences for failure to appear;
- E. A place for the alleged violator to sign acknowledge receipt of the citation and his/her promise to appear at the hearing;
- F. The signature of the issuing officer; and
- G. On the reverse side, the amount of civil remedial forfeitures; together with
- H. A place for a defendant to sign who desires to enter an admission to the violation or a plea of NO CONTEST; and
- I. The address of the Clerk of Tribal Court to which such admission and civil forfeiture should be mailed or delivered.

Subd. 2. ADMISSION AND WAIVER. An alleged violator may admit guilt or plead "NO CONTEST" to an alleged violation by signing the reverse side of the citation and either mailing or delivering the same to the Clerk of Tribal Court together with full payment of the civil remedial forfeiture as set forth on the schedule so that the same is received prior to the hearing date. Such admission or plea of "NO CONTEST" shall constitute a waiver of any

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defenses which the defendant might otherwise assert, a waiver of any hearing thereon, and a waiver of any rights which the defendant might have with respect to said proceedings.

**13.06: FORMAL CIVIL COMPLAINT.** A civil complaint brought in the name of the Band, as plaintiff, against an alleged violator shall be used when damages (including punitive damages) in excess of \$1000 are sought and when the alleged violator denies the alleged actions in a citation and, either in writing or in open court, requests a formal complaint. The original shall be filed with the Clerk of Tribal Court and a copy shall be served upon the defendant or defendant's attorney and accompanied by a Summons issued by the Clerk of Tribal Court informing the defendant that a written answer to the allegations set forth in the Complaint must be filed with the Tribal Court and served upon the Band Prosecutor within twenty (20) days, exclusive of the day of the Summons, or default judgment granting the relief sought in the Complaint will be awarded to the Band.

**13.07: FORMAL ANSWER.** The answer of the defendant must be in writing, must address the specific factual allegations contained in the formal Complaint, must not be a general denial, and must set forth any and all defenses asserted by the defendant.

**13.08: HEARINGS.** An initial hearing shall be held as to each citation issued where the defendant has not waived such hearing by signing the reverse side of the citation, either admitting the violation or pleading NO CONTEST, and has paid the scheduled civil remedial forfeiture for the violation.

Subd. 1. CONDUCT OF HEARING. At such hearing, the Tribal Court shall;

- A. Ascertain the identity and tribal affiliation, if any, of the defendant;
- B. Inform the defendant of the nature of the alleged violation and the consequences thereof and his/her rights in the proceeding, and enter into the record the defendant's understanding of the same;
- C. Establish a factual basis for accepting an admission or a plea of NO CONTEST after which the court may proceed to disposition or continue the matter to obtain further information relative to disposition;
- D. In the event of a denial by the defendant without a request for a formal civil complaint, the Tribal Court shall set a date for a court trial or, in lieu thereof, inform the parties that a Notice of such court trial date shall be subsequently served upon them by the Clerk of Tribal Court.

Subd. 2. PRE-TRIAL CONFERENCE. In any case where a formal civil complaint and an answer thereto has been served and filed, the Tribal Court shall establish a date for a pre-trial conference between the parties, or their counsel, and the Court at which time any dispositive motions not earlier heard shall be heard, efforts to resolve the dispute may be undertaken and, if not successful, a date for trial shall be set.

Subd. 3. MOTIONS AND HEARINGS. The Tribal Court shall set date for which written motions served and filed by any party to the proceedings may be heard.

Subd. 4. CONTINUANCES. The Tribal Court, on its own motion or upon a reasonable request made by the party to the proceedings, may continue any previously scheduled hearings,

including trials. Notice of any such continuances and the newly-scheduled date of the hearing shall be promptly served by the Clerk of Court upon the parties.

Subd. 5. DISCOVERY. The parties shall timely provide opposing parties or their counsel, if any, with the names of any witnesses they intend to call, a summary of the expected testimony of such witness, and with copies of all factual data in their possession of or in which they have knowledge which may tend to prove or disprove the allegations of a violation or support the relief sought. Such other discovery is permitted as in provided in the Tribal Court's Rules of Civil Procedure.

Subd. 6. TRIALS. All trials of civil matters shall be before the Tribal Court, without jury, and shall be conducted in the same manner as a trial of any other civil proceedings. The burden of proving an alleged violation occurred by a preponderance of the evidence shall be upon the Band. The defendant shall have the same burden of proving affirmative defenses, if any, which have been raised. The Tribal Council may issue its determination in open Court upon the conclusion of the trial or take the matter under advisement and shall enter written findings of fact and conclusion of law in any case in which a formal Complaint and Answer has been served and filed.

Subd. 7. JUDGEMENT. A written judgement awarding or denying relief shall be entered by the Tribal Court and served upon the parties upon the conclusion of the trial. The judgement may also assess the costs.

Subd. 8. APPEAL. Appeals from judgements and Final Orders of dispositive motions may be taken by the aggravated party in the same manner appeals are taken in any Tribal Court civil proceedings.

**13.09: FIELD BOND PROCEDURES**. If an alleged violator refuses to sign to promise to appear, or cannot or refuses to be identified, or is not a Band member and is not a permanent resident of the Reservation, then the law enforcement officer may demand that the alleged violator post a bond in an amount not exceeding \$500.00.

Subd. 1. CASH BOND. The alleged violator may post a cash bond in the amount specified by the officer which shall be returned after trial or hearing in which the Tribal Court determines no violation occurred or upon other Order of the Court releasing the bond. In the event of a default judgment, admission, or plea "NO CONTEST" or a finding after trial that a violation did occur, if the defendant fails to pay when due all the amounts ordered and no appeal is filed provided by Band law, then the Tribal Court shall apply the bond payment of any amount ordered to be paid and return any excess, if any, to the defendant.

Subd. 2. PROPERTY BOND. In lieu of cash, the alleged violator may post as bond any property which the law enforcement officer reasonably believes is valued at an amount at least equal to the required bond amount. Said property shall be returned after a trial or hearing in which the Tribal Court determines no violation occurred or upon other Order of the Court releasing the bond. In the event of a default judgment by reason of failure to appear or failure to timely submit an answer to a formal complaint, or a subsequent admission, remedial forfeitures, damages, punitive damages and costs awarded is not

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received within thirty (30) days thereof, and no appeal is filed as provided by Band law, the property shall be sold at public auction and the amount received shall be applied to satisfaction of any judgment in favor of the Band or to payment of civil remedial forfeiture ordered, and any excess shall then be returned to the defendant.

Subd. 3. REDEMPTION OF BOND PROPERTY. An alleged violator or the record owner of property posted as a field bond may redeem said property at any time during normal business hours by posting a cash bond in lieu thereof or by paying damages, punitive damages, costs, and civil remedial forfeitures awarded by the Tribal Court. Redemption must occur, if at all, prior to said property being sold at public auctions.

Subd. 4. RECEIPT FOR BOND. A law enforcement officer shall issue a written receipt to the alleged violator for any and all cash or property received or taken as a field bond.

Subd. 5. SEIZURE OF PROPERTY AS FIELD BOND. A law enforcement officer may seize the property for the purpose of a field bond without the consent of the alleged violator whenever the officer has reasonable grounds to believe that the alleged violator would flee or refuse to submit to the jurisdiction of the Band; or the alleged violator has no significant ties to the Band or Reservation which would permit less stringent means of enforcing this Code. In any such event, the officer shall provide the alleged violator and any record owner of the property with written notice of seizure. Such notice may be served by mail at the alleged violator's and/or record owner's last known address if personal service is not feasible.

**13.10: MINORS/PARENTAL RESPONSIBILITY.** The parent, guardian, or legal custodian of any person under the age of eighteen (18) years, who violates the provisions of this Code, and who knowingly permitted their minor child to hunt, fish, or gather, shall be held civilly responsible for any damage suffered by the Band as a result of the violation. Parents, guardians, or legal custodians who knowingly permit their minor child to violate this Code shall be held jointly responsible for any civil remedial forfeitures, damages and costs awarded to the Band in the proceeding against the minor child.

#### **Section XIV. NETT LAKE RESTRICTIONS**

##### **14.01. MOTORBOATS AND AIRCRAFTS PROHIBITED.**

Subd. 1. PROHIBITION. The following shall be unlawful on or in Nett Lake:

- A. Possessing or operating a motorboat or aircraft;
- B. The landing or taking off of an aircraft;
- C. Possessing or transporting any motor or mechanical device capable of propelling a watercraft through water by any means;
- D. The dropping or picking up of any material, object, supplies, person, or natural resources, including but not limited to water, by means of an aircraft; or
- E. Applying or attempting to spray, drop, or otherwise apply chemicals or other substances from an aircraft.

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Subd. 2. EMERGENCY RESPONSES. The restrictions, requirements, and prohibitions contained in Section 14.01, subd. 1, shall not apply to law enforcement or any other emergency response personnel when:

- A. Enforcing the restrictions, requirements, and prohibitions of this Section XIV or any other applicable law; or
- B. Rescuing, rendering aid, or otherwise responding to an emergency on or in Nett Lake where there is an imminent and substantial risk of death, bodily harm, or danger to the public, except that picking up of water by means of an aircraft is prohibited notwithstanding the fact that such action is in response to an emergency.

Subd. 3. The restrictions, requirements, and prohibitions contained in Section 14.01, subd. 1 shall not apply to the BFDNR or any other governmental department of the Bois Forte Band or its employees when carrying out management or conservation activities, community safety support, or other activities within the authority of that department.

#### **14.02. NON-NATIVE SPECIES.**

Subd. 1 INTRODUCTION OF NON-NATIVE SPECIES. It shall be unlawful to introduce, including through the placement of any water-related equipment that has a non-native species attached, a non-native species into Nett Lake.

Subd. 2. NON-NATIVE SPECIES LIST. BFDNR, in consultation with the Conservation Committee, shall from time to time publish a list of non-native species whose introduction shall be prohibited under Section 14.02, subd. 1.

Subd. 3. INSPECTION AUTHORITY.

- A. The BFDNR, or an individual designated by the BFDNR, shall have the authority to inspect any water-related equipment near or on the waters of Nett Lake for the presence of non-native species.
- B. The BFDNR, or an individual designated by the BFDNR, may prohibit an individual from placing or operating water-related equipment in Nett Lake if the individual refuses to allow an inspection of the individual's water-related equipment or refuses to remove and dispose of the non-native species.

### **Section XV. BIRCH POLE REGULATIONS<sup>1</sup>**

**15.01. General Prohibition.** No person may gather birch poles on lands over which the Band has governmental jurisdiction unless the person possesses a valid "Traditional Use Permit".

**15.02. Traditional Use Permit Requirement.** Band Members who have a traditional (non-commercial) need for birch polls may apply for a Traditional Use Permit to harvest birch polls consistent with the limitations set forth in this Regulation. Applications for a Traditional Use Permit may be obtained from

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<sup>1</sup> Adopted on July 21, 2021, through Resolution No. 6-2022.

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and submitted to the Bois Forte Forester who will decide whether to issue a Traditional Use Permit in his or her sole discretion.

**15.03. Season Dates and Hours.** Band Members who obtain a valid Traditional Use Permit may gather birch poles Monday through Friday between the hours of 8 A.M. – 6 P.M.

**15.04. Gathering Restrictions.**

Subd. 1. The Birch poles being harvested shall not be more than 5" DBH (diameter at breast height).

Subd. 2. Gathering shall not occur within 50 feet of lakes, campsites, roads, or maintained trails.

Subd. 3. Band Members gathering birch poles must carry their Traditional Use Permit and valid Bois Forte Identification Card on their person at all times.

**15.05. Limits.**

Subd. 1. A Band Member who is in possession of a Traditional Use Permit may harvest up to 25 birch poles.

Subd. 2. Upon harvesting the birch poles, the Band Member must contact the Bois Forte Forester who shall verify number of harvested birch poles to ensure compliance with this Regulation.

Subd. 3. No more than three (3) Traditional Use Permits may be issued for a given harvesting activity/project in any calendar year.

Subd. 4. A Band Member may not receive more than one Traditional Use Permit for birch pole gathering in any calendar year.