

BAND ASSEMBLY BILL 07-03-07-97

A bill of tribal government to implement the 1837 Treaty Conservation Code for the Minnesota Ceded Territory.

The District III Representative introduced the following bill on the 31st day of January 1997.

Preamble

Be it enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of implementing the 1837 Treaty Conservation Code for the Minnesota Ceded Territory.

1837 TREATY CONSERVATION CODE FOR THE MINNESOTA CEDED TERRITORY

CHAPTER 1 - INTRODUCTION

1.01 Title. This ordinance shall be known as the 1837 Treaty Conservation Code for the Minnesota Ceded Territory of the Mille Lacs Band of Ojibwe Indians.

1.02 Authority. This ordinance is enacted pursuant to 3 MLBSA § 2(a).

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. [Except Mille Lacs: No member shall hunt, fish or gather within the boundaries

(3) In reviewing and taking action on any request for a permit to harvest a resource for religious or ceremonial purposes, the Commissioner shall take into account the biological impact of the harvest and shall ensure compliance with all provisions of the 1837 Treaty, applicable Federal law, and the opinions, orders and decrees entered by the Court in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.).

1.10 Additional Measures. The Department of Natural Resources is authorized to issue orders that impose measures regulating hunting, fishing and gathering by Band members in the Minnesota Ceded Territory that are in addition to and more restrictive than the provisions of this ordinance.

CHAPTER 2 - GENERAL DEFINITIONS

2.01 General Definitions. The following terms, wherever used in this ordinance, shall be construed as follows:

(1) **"Band," "Tribe," and "Tribal"** mean or refer to the Mille Lacs Band of Ojibwe. 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) **"Carcass"** means the dead body of any wild animal to which it refers, and, unless clearly indicated to the contrary by a specific provision of this ordinance in particular circumstances, includes the hide or skin and head.

(2A) **"Commercial 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.

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

(3A) **"Commissioner"** means the Commissioner of Natural Resources of the Mille Lacs Band, unless the context expressly indicates otherwise.

(4) **"Department of Natural Resources"** means the Band's conservation department, unless the context expressly indicates otherwise.

(5) **"Endangered 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 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

(14A) **"Subsistence 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:

"family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis;

"handicraft 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

"barter" means the sale or exchange of natural resources or parts thereof for subsistence uses between members of the Bands.

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

(16) **"Unprotected 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.

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

(18) **"Wildlife"** means all varieties of wild animals.

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

(20) **"Working day"** means Monday, Tuesday, Wednesday, Thursday or Friday, unless such day is a Band holiday.

CHAPTER 3 - GENERAL

3.01 Regulatory Authority.

(1) The Band asserts legal authority to regulate the harvesting, use and

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.

(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.

3.06A Fish Stocking: Undesirable Exotic Aquatic Plants or Wild Animals.

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.

(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

(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;

(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

(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.

(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.

3.07 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.

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.

(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.

3.17 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, 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.

3.18 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 0.05% or more by weight of alcohol in the member's blood or 0.05 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

for that zone.

(10) [Open.]

(10A) 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;

(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.

(10B) 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.

(10B)(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.

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

3.24 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.

3.25 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(5), except when: (a) the member has received a permit from the Federal or State government or the Commissioner to do so; (b) it is necessary to prevent injury to human life; or (c) 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.

3.26 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).

3.27 Special Use Areas.

(1) The Commissioner is authorized to identify special use areas in the

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;
- (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.

3.31 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.

(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.

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.

3.36 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.

3.37 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 State Department of Natural Resources, the Commissioner, or the Commission that are designated as spawning beds or fish preserves.

(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.

3.38 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.

3.39 Training Dogs.

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 3.26 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;
 - (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

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), \$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

(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.

(1A) A member who sells wild rice harvested under this ordinance to non-members shall comply with the following labelling requirements:

(a) Wild rice containing a portion of wild rice that is cultivated and offered for wholesale or retail sale must be plainly and conspicuously labelled 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 labelled "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).

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

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 3.30 [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

(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:

(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

December 31.

(3) **State Season**. No member shall hunt in a State hunting zone without complying with the provisions of Section 3.21(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 3.31 [Emergency Closure].

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;

(2A) With a smooth-bore muzzle-loader less than .45 caliber or a rifled muzzle-loader less than .40 caliber;

(2B) With a projectile other than one with a soft point or which is an expanding bullet type;

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

(4) With shot shells containing shot size less than 12 gauge "00" buckshot;

(4A) 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

(5) With a silencer for a firearm or firearm equipped to have a silencer attached.

6.10 Bow/Crossbow Restrictions. No member shall hunt deer:

(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

(b) bow hunting is permitted on lands which are designated for bow hunting.

(3) All parks identified by Commissioner's Order under Section 3.27 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

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:

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

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

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

(4) **Antlered Deer Level 1 Commercial Harvest.**

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

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

(c) A member may register an antlered deer under this subsection at any

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.

(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:

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.

(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

(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 3.30 [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 Mille Lacs Band v. State of Minnesota, No. 3-94-1226, 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).

(1A) "Crossbow" shall have the meaning provided in Section 6.01(3).

(2) "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) 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 first working day after the killing.

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

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

(3A) A member registering a bear shall upon request submit biological samples to the Commission according to the instructions of the Commission.

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

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

(6) 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 first working day after the field registration.

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:

7.14 Hunting with Non-Members. Except as provided in Section 3.30 [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.

7.16 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 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 3.27 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 3.27, except as hunting is permitted by the Commissioner in those areas.

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 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

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 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.

(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(9) but shall not include trapping for the purposes of this chapter.

(5) **"Trap"**, in addition to the meaning prescribed in Section 2.01(15), 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 number of otter, bobcat, marten, lynx or fisher which shall be available for harvest pursuant to this ordinance for each twelve month period commencing July 1 and ending June 30 shall be limited to the number established by the Bands, after consultation with the State Department of Natural Resources regarding the total harvestable surplus, 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 small game management. For purposes of this ordinance, this number shall be termed the treaty quota.

8.07 Small Game Harvest Permits/Tags.

Section 4.02 to enforce the provisions of this ordinance is authorized to register 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 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, marten, 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):

(o.i) Badger	Day after Labor Day - March 1
(i) Bobcat	October 1 - March 31
(ii) Beaver	Year Around
(iii) Bobwhite Quail	Day after Labor Day - March 31
(iv) Coyote	Year Around
(v) Cottontail Rabbit	Year Around
(vi) Fisher	No Open Hunting Season

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.

(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 3.27 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 3.27, 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 Section 3.21(1), no member shall hunt or trap small game on any privately owned land except those lands which are open to the general public for hunting by operation of state law.

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.
- (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.

(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:

(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 ..

(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.]

(5A) Turkey Quotas. The numbers of bearded and beardless turkeys that may be harvested in each wild turkey management zone under this ordinance shall be limited to the numbers established by the Bands, after consultation with the State Department of Natural Resources regarding the total harvestable surplus in the zone, and in accordance with the provisions in the final decree in Mille Lacs v. State of Minnesota, No. 3-94-1226 (D. Minn.), regarding wild turkey management. For purposes of this ordinance, these numbers shall be termed the treaty quotas.

(6) 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.

(7) Registration Required.

(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 next 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

(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

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

(3) Except as provided in subsection (1A) and (4), 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.

(v) Waters designated in Section 9.08(2)	Gillnets subject to Section 9.08	June 1 to March 1, except Mille Lacs Lake open Year Around	None
			See Section 9.08(2)(c)

(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

(v) Waters designated in Section 9.08.	Gillnets subject to Section 9.08	June 1 to March 1	See Section 9.08(2)(c)	None
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(d) Lake Sturgeon.

(i) St. Croix River below Taylors' Falls	Open water hook & line fishing, ice fishing (including spearing when ice fishing)	June 1 to March 1 year, all methods (except as provided in Sec. 9.26)	1 per person/size limit (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 subject to Section 9.06 and and spearing while ice fishing	June 1 to March 1 year, all methods (except that 1 sturgeon per lake may be taken by all members during spring spearing and except as provided in Sec. 9.26)	1 per person/size limit (except as provided in Sec. 9.26)	45 inch minimum size limit (except as provided in Sec. 9.26)

(g) Lake Trout.

(i) All waters	Open water hook & line fishing, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to Sec. 9.06.	Year Around	5 per person/day	None
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(h) White Bass, Rock Bass, Bluegill, Crappie, Pumpkinseed, Yellow Perch, Yellow Bass, Catfish.

(i) All waters	Open water hook & 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.	Year Around	None	None
(ii) Waters designated in Sec. 9.08(2)	Gillnets subject to Sec. 9.08	Year Around	None	None

(i) Cisco and Whitefish.

(i) All waters	Hook & line; ice fishing (including spearing when ice fishing); open water spearing and snagging subject to Sec. 9.06; setline, set or bank pole subject to Sec. 9.09; all nets (excluding gillnets) subject to Section 9.07	Year Around	None	None
(ii) Waters designated in Sec. 9.08(2)	Gillnets subject to Sec. 9.08	Year Around	None	None

(j) Rough Fish.

(i) All waters	All methods unless otherwise specifically prohibited by this ordinance except gillnetting	Year Around	None	None
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(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), the respective number of game fish spearing permits which may be issued at any one 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.

(2A) 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.

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

(4) No member shall fish with the use of a spear which does not meet the requirements of Section 9.01(9) [Spear Defined].

(5) No member shall possess any fish harvesting devices other than a spear while engaged in open water spearing.

(6) No member shall share spearing equipment with any person who is not a member of one of the Bands, except as provided in Section 3.30 [Permissible Conduct/Assistance by Non-Members].

(7) The Department of Natural Resources shall not issue a permit for spearing a

(i) Permits issued pursuant to Section 9.19 [Bait Dealers Regulated] shall be governed by the provisions of that section; and

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

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

(4) No member shall fish with the use of a dip net, fyke net or seine which does not meet the requirements of Section 9.01(1) [Dip Net Defined], Section 9.01(2) [Fyke Net Defined], or Section 9.01(8) [Seine Defined].

(5) Except while netting for minnows pursuant to Section 9.19, no member shall possess any fish harvesting device other than a dip net, fyke net or seine while engaged in netting under this section.

(6) No member shall share netting equipment authorized under this section with any person who is not a member of one of the Bands, except as provided in Section 3.30 [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:

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

(4) No member shall fish with the use of a gillnet which does not meet the requirements of Section 9.01(3) [Gillnet Defined].

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

(6) No member shall share gillnetting equipment authorized under this section with any person who is not a member of one of the Bands, except as provided in Section 3.30 [Permissible Conduct/Assistance by Non-Member].

(7) 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.

(8) 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;

(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.

(9) 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.

(10) 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.

(11) No member shall remove a gillnet from a lake without first removing from the

(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].

9.10 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.

(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

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 3.30 [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.

9.14 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

(b) No member shall import minnows into the State of Minnesota or release any minnow or other bait fish on any waters or shores.

(c) No member shall use as bait while fishing in a water body pursuant to this ordinance game fish taken from another water body.

9.17A 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.

9.18 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].

9.19 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.

(1A) 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].

(2) 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.

(3) No member shall take or possess more than 600 minnows at any time unless

(f) A permit shall require all minnows not kept and all game fish caught by the nets or other devices to be promptly returned unharmed to the water;

(g) A permit shall prohibit the removal or destruction of vegetation, logs and other habitat features; and

(h) The 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.

(5) No member shall take or attempt to take minnows contrary to the terms and conditions of any permit issued under subs. (4).

(6) Nothing in this 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 3.26 [Records of Commercial Transaction], and provided further that vehicles used for transporting minnows for sale shall display an identification number issued by the Department of Natural Resources on the driver's door.

9.20 Commercial Harvest of Game Fish.

(1) (a) The provisions of this section and Section 9.21 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 9.21 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.

9.21 Commercial Harvest of Game Fish Regulated.

(1) The purpose of this section is to establish the regulations governing the commercial harvest of game fish.

9.22 [Open.]

9.23 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.

9.24 [Open.]

9.25 [Open.]

9.26 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(3)(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(4), the Department of Natural 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.

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 unpredetermined quantities to satisfy a maximum take limit.

(b) **"Daily bag limit"** means the maximum number of migratory birds of a single species or combination (aggregate) of species permitted to be taken by one member in any one day during the open season.

(c) **"Aggregate daily bag limit"** means the maximum number of migratory birds permitted to be taken by one member in any one day during the open season when such member hunts for more than one species for which a combined daily

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.

(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.

remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this section shall prohibit:

(i) the taking of all migratory birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shucked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(ii) the taking of all migratory birds, except waterfowl, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: Provided, that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown;

(i) While possessing shotshells loaded with shot other than steel shot or such shot approved as non-toxic by the Director of the U.S. Fish and Wildlife Service, provided that this restriction applies only to the taking of ducks, geese (including brant), swans and coots and any species that make up aggregate bag limits during concurrent seasons with the former;

(j) With shot larger than size T; or

(k) By the use or aid of any motor driven land, water, or air conveyance, or any sailboat, used for the purpose of or resulting in the concentrating, stirring up, driving, or rallying any migratory bird.

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).

10.06A 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.

such hunting is clearly posted.

10.10 Duck Blinds.

(1) 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.

10.11 Possession Regulated.

(1) Prohibited if taken in violation of sections 10.05-10.10. 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 10.05-10.10 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

(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 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.

10.13 Exportation Regulated.

(1) Prohibited if taken in violation of sections 10.05-10.10. 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 10.05-10.10 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.

10.14 Permit Required. No member shall hunt migratory birds pursuant to this ordinance without possessing a valid migratory bird hunting permit issued by the Band.

10.15 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 3.27 of this ordinance.

10.16 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.

(2) **Species and Size Limits.** Only leopard frogs (*Rana pipiens*) and bull frogs (*Rana catesbeiana*) 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.**

(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.

(a) The Commissioner may issue permits to harvest mussels commercially, in areas determined after consultation with the State 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 3.31 to protect aquatic resources.

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.

11.06 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 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.

(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.

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:

(X) "Fuel wood" shall mean trees, whether standing or down, that will be used for personal use to produce heat.

12.03 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

(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.

12.05 Sale of Wild Plants Authorized.

(1) Except as provided in subsection 12.03(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 3.26 [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 3.26, no member shall fail to specify the county of ginseng harvest on the record of a commercial transaction.

12.06 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 3.30 [Permissible Conduct/Assistance by Non-Members].

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KDS:Bandrod6.cln

Ordinance 07-96

Introduced to the Band Assembly on this
thirty-first day of January in the year one
thousand nine hundred ninety seven.

Passed by the Band Assembly on this
twenty-seventh day of February in the year
one thousand nine hundred ninety seven.


David Matrious, Speaker of Assembly

APPROVED
DATE: 3-7-97


Marge Anderson, Chief Executive

FILED
DATE: March 10, 1997

 For James Genia
James Genia, Solicitor General

OFFICIAL SEAL OF THE BAND