

# Mille Lacs Band Statutes Annotated

Amendments received through: April 30, 2022

---

## TITLE 11 - ENVIRONMENT, NATURAL RESOURCES, ANIMALS AND PLANTS

<u>Chapter</u>	<u>Section</u>
1. Environmental Protection	1
2. Solid Waste Disposal Recycling	1001
3. Natural Resource Protection Code	2001
4. Animals	3001
5. 1837 Treaty Conservation Code for the Minnesota Ceded Territory	4001

### Historical and Statutory Notes

Band Statute 1163-MLC-21, T.I, § 18.01 provides: "If any provisions of the Band Statute, or the application thereof, to any person, business, corporation or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Band Statute which can be given effect without the invalid provisions or application and to this end, the provisions of this Band Statute are declared severable."

## CHAPTER 1

### ENVIRONMENTAL PROTECTION

<u>Subchapter</u>	<u>Section</u>
1. General Provisions	1
2. Environmental Protection Ordinance	101
3. Litter	201

### Historical and Statutory Notes

The Preamble of Band Statute 1163-MLC-21 provides: "It is enacted by the Band Assembly of the Non-Removable Mille Lacs Bands of Chippewa Indians for the purpose of amending the environmental laws to establish minimum requirements for air, water, land and natural resource pollution control within the territorial jurisdiction of the Non-Removable Mille Lacs Bands of Chippewa Indians."

## SUBCHAPTER 1

### GENERAL PROVISIONS

#### Section

1. Purpose.
2. Creation of Environmental Protection Commission.
3. Selection and Terms of Office of Environmental Protection Commission.
4. Environmental Protection Directives.
5. Powers and Duties of Environmental Protection Commission.
6. Entry Upon Property.
7. Reports to Band Assembly.
8. Emergency Powers.
9. Jurisdictional Authority.
10. Judicial Authority.
11. Duty to Notify and Avoid Pollution.
12. Enforcement.
13. Law Enforcement and Natural Resources Officers; Powers.
14. Criminal Penalties.
15. Civil Penalties.
16. Defenses.
17. Actions to Recover Penalties or Damages.
18. Actions for Declaratory or Equitable Relief.
19. Exempt Acts.
20. Jurisdiction and Service of Process.
21. Notice to Band of Summons and Complaint.
22. Intervention.
23. Burden of Proof.
24. Collateral Estoppel.
25. Res Judicata.
26. Relief.
27. Rights and Remedies Non-Exclusive.
28. Statute of Limitations.
29. Recovery of Litigation Costs and Expenses.
30. Sovereign Immunity.
31. Construction.

#### § 1. Purpose.

- (a) The purpose of Subchapters 1 and 2 of this chapter is to achieve a reasonable degree of purity of air, water, land, and natural resources of the Band consistent with the maximum enjoyment and use thereof in furtherance of the welfare of all persons within the jurisdiction of the Band. Subchapters 1 and 2 of this chapter are enacted by the inherent aboriginal and sovereign rights of the members of the Non-Removable Mille Lacs Bands of Chippewa Indians, the Treaties of 1837 and 1855, and by the

authority vested in the Non-Removable Mille Lacs Bands of Chippewa Indians under Article I, Section 3; Article VI, Sections 1 and 2; and Article XIII of the Constitution of the Minnesota Chippewa Tribe.

- (b) It is the purpose of Subchapters I and II of this chapter to establish and further the environmental policies of the Bands to provide for the prevention, control and abatement of the pollution of the air, water, and land, so far as feasible and practical, in furtherance of conservation of the natural resources and public health and safety of all territories subject to the jurisdiction of the Band. It is hereby declared that such efforts are necessary for the protection of present and future vital security interests of the Band and its members.
- (c) It is the purpose of Subchapters 1 and 2 of this chapter, to safeguard the air, waters and lands of the Band from pollution by preventing any new pollution and abating pollution existing upon enactment of this Band Statute, under a program consistent with the declaration of policy hereinafter stated and the minimum environmental standards established by the laws and regulations promulgated by the United States of America, unless supplemented by more restricted standards of Band law.
- (d) It is the purpose of Subchapters 1 and 2 of this chapter, to perpetuate commonly held traditional beliefs, amongst American Indian people that human beings have a duty to peacefully co-exist within the natural environment. Human beings further have a natural duty to protect the environment which provides humans with life-sustaining natural resources.
- (e) It shall be the public policy of the Non-Removable Mille Lacs Bands of Chippewa Indians that each person has an inalienable right to the protection, preservation, and enhancement of air, water, land and other natural resources located within the jurisdiction of the Band and that each person has a legal duty to aid in the protection, preservation and enhancement of air, water, land and other natural resources located within the jurisdiction of the Band, so that all human beings may live in harmony with nature.
- (f) It shall be the public policy of the Non-Removable Mille Lacs Bands of Chippewa Indians to enact and enforce a series of environmental protection measures which shall, at a minimum equal the environmental protection laws of the United States of America and, if necessary and prudent exceed the minimum standards established by federal law.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 1.

### **Cross References**

Band governmental power and sovereignty, see 2 MLBS § 1.

**§ 2. Creation of Environmental Protection Commission.**

There is hereby created within the Natural Resources Administration, a separate administration to be known as the Environmental Protection Commission of the Non-Removable Mille Lacs Bands of Chippewa Indians.

**Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 2.

**§ 3. Selection and Terms of Office of Environmental Protection Commission.**

- (a) The Environmental Protection Commission shall be comprised of a five-member commission chaired by the Commissioner of Natural Resources. The remaining members of the Commission shall be nominated by the Chief Executive and confirmed by the Band Assembly to a four-year term of office to expire on June 30, 1992, and every four years henceforth from this date.
- (b) The members of the Commission shall be nominated as a consequence of their individual education, abilities, knowledge of nature, concern and commitment demonstrated for the environmental resources of the Band. The composition of the Commission shall not be restricted to members of the Band and at least one seat shall be filled by a person from the community surrounding the lands subject to the jurisdiction of the Band.

**Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 3.

**§ 4. Environmental Protection Directives.**

The public acts and deeds of the Agency shall be published in the form of Environmental Protection Directives. Such written Directives shall be in uniform format, numbered consecutively and have expiration dates. The Commissioner of Natural Resources is authorized to execute such Directives in the name of the Commission, and to act in the name of the Commission when public necessity so dictates a documented need to do so, or as set forth in 11 MLBS § 8.

**Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 3.02.

## **§ 5. Powers and Duties of Environmental Protection Commission.**

The Environmental Protection Commission shall have the following powers and responsibilities:

- (a) To administer and enforce all environmental protection regulations, herein enacted, of the United States of America and the Non-Removable Mille Lacs Bands of Chippewa Indians;
- (b) To investigate the extent, character and effect of pollution of the air, water, land or natural resources of the Band and to gather data and information necessary or desirable in the administration or enforcement of pollution laws, and to make such classification of the air, water, land or natural resources of the Band as it may deem advisable; and, to take such measures as necessary to abate pollution;
- (c) To establish and alter such reasonable standards and regulations for quality air, water, lands and other natural resources of the Band in relation to the public use and enjoyment of the members as necessary to implement the purposes of Subchapters 1 and 2 of this chapter;
- (d) To adopt, issue, reissue, modify, deny, or revoke, enter into or enforce reasonable orders, permits, variances, standards, regulations, schedules of compliance, and stipulation agreements, under such conditions as it may prescribe, in order to prevent, control or abate pollution of the air, waters, lands, or natural resources subject to the jurisdiction of the Band;
- (e) To exercise all powers, duties and responsibilities, which are reasonably necessary for the protection of the air, water, lands, and natural resources of the Band. All such authority so exercised pursuant to this subsection shall be consistent in scope and nature with authority delegated to the United States Environmental Protection Agency by act of Congress or federal judicial interpretation of such act.
- (f) To enter into cooperative agreements with any environmental protection agency of the United States, the State of Minnesota or any other federally recognized Indian tribe relating to the purposes of Subchapters 1 and 2 of this chapter.
- (g) To receive and accept money, property or services from any person or from any agency described in subsection (f) or from any other source for any purpose within the scope of its functions, in the name of the Non-Removable Mille Lacs Bands of Chippewa Indians. All monies so received are hereby appropriated for such purposes in like manner and subject to like provisions of law as the corresponding appropriations of all Band revenue. The Commission shall have no authority to waive the sovereign immunity of the Non-Removable Mille Lacs Bands of Chippewa Indians as a requisite to receipt of any domestic assistance or private funding.

- (h) To issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installation or operation of any emission facility, air contaminant treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof, or for the sources or emission of either air or noise pollution on lands subject to the jurisdiction of the Band.
- (i) To issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the storage, collection, transportation, processing, or disposal of waste, or for the installation or operation of any system or facility, or any part thereof related to the storage, collection, transportation, processing, or disposal of waste.
- (j) To prohibit the introduction, storage, collection, processing, disposal, or transportation of hazardous waste on lands subject to the jurisdiction of the Band.
- (k) To hold public hearings as it may deem necessary or advisable for the discharge of its duties under this act. All hearings conducted by the Environmental Protection Commission shall be recorded and transcribed. All final records, studies, reports and other documents prepared in final form by order of, or for consideration of, the Commission, are confidential records of the Non-Removable Mille Lacs Bands of Chippewa Indians. Notwithstanding the foregoing, the Commission may disclose any such information in order to comply with federal law and regulation, to the extent and for the purposes of such federally required disclosure.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, § 4.

#### **§ 6. Entry Upon Property.**

Whenever the Commission deems it necessary for the purposes of Subchapters I and II of this chapter, the Commission or any member, employee, or agent thereof, when authorized by it, may enter upon any property subject to the jurisdiction of the Band or public lands not subject to the jurisdiction of the Band, for the purpose of obtaining information or conducting surveys or investigations.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 4.12.

#### **§ 7. Reports to Band Assembly.**

The Environmental Protection Commission shall, before December 1 of each year, prepare a report of progress on abatement and control of air, water, land or natural resource pollution with recommendations for legislation in furtherance of the Band's environmental policies.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-2 1, T.I, § 20.

#### **§ 8. Emergency Powers.**

In the event that there is imminent and substantial danger to health and welfare of the members of the Band as a result of the pollution of air, water, land or natural resources; upon such finding, the Environmental Protection Commission may by emergency directive order the immediate discontinuance of abatement of such pollution without notice and without a hearing, or at the request of the Commission, the Solicitor General of the Band may bring an action in the name of the Band in any court of competent jurisdiction for a temporary restraining order to immediately abate or prevent such pollution. Such Commission directive or temporary restraining order shall remain effective until notice, hearing and determination are affected pursuant to other provisions of law, or, in the interim, as otherwise ordered. Such Commission directive shall be appealable to the Court of Central Jurisdiction.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 21.

#### **§ 9. Jurisdictional Authority.**

The Environmental Protection Commission shall exercise all the environmental jurisdiction possessed by the Non-Removable Mille Lacs Bands of Chippewa Indians as stated herein:

- (a) The Non-Removable Mille Lacs Bands of Chippewa Indians shall exercise concurrent environmental jurisdiction with the United States of America over the air space encompassing all lands and waters subject to the jurisdiction of the Band.
- (b) The Non-Removable Mille Lacs Bands of Chippewa Indians shall exercise concurrent environmental jurisdiction with the United States of America over all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation system, drainage systems and all other accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon lands of the Mille Lacs Bands of Chippewa Indians.
- (c) The Non-Removable Mille Lacs Bands of Chippewa Indians shall exercise concurrent environmental jurisdiction with the United States of America over:

- (1) all lands within the exterior boundaries of the Mille Lacs Reservation and Sandy Lake Reservation as established by the Treaty of 1855;
  - (2) all lands held in trust by the United States of America for the benefit of the Minnesota Chippewa Tribe, which are lawfully delegated to the jurisdiction of the Mille Lacs Bands; and, all lands held in trust by the United States of America for the benefit of the Non-Removable Mille Lacs Bands of Chippewa Indians;
  - (3) all lands subject to the jurisdiction of the Band pursuant to federal law, notwithstanding the issuance of any patent, and including rights-of-way running through said lands;
  - (4) all individual allotments for the benefit of any member of the Non-Removable Mille Lacs Bands of Chippewa Indians which are located within the exterior boundaries of the Mille Lacs and Sandy Lake Reservations as established by the Treaty of 1855;
  - (5) all lands held in fee status in the name of the Non-Removable Mille Lacs Bands of Chippewa Indians which are located within the exterior boundaries of the Mille Lacs and Sandy Lake Reservations as established by the Treaty of 1855.
- (d) The criminal and civil jurisdiction of the Non-Removable Mille Lacs Bands of Chippewa Indians shall extend to all enrolled members of the Mille Lacs Bands of Chippewa Indians, enrolled members of the Minnesota Chippewa Tribe who reside within the territorial jurisdiction of the Mille Lacs Bands of Chippewa Indians, Indians from other tribes who enter the territorial jurisdiction, including Indian Country, of the Mille Lacs Bands of Chippewa Indians, Indians from other tribes who enter the territorial jurisdiction of the Mille Lacs Bands of Chippewa Indians by virtue of residency, employment or violation of Mille Lacs Band Statute(s) within the territorial jurisdiction of the Mille Lacs Bands of Chippewa Indians.
  - (e) The exercise of civil jurisdiction of the Non-Removable Mille Lacs Bands of Chippewa Indians over non-Indians, in environmental protection causes of action shall exist to the extent authorized by the laws of the United States of America. The criminal jurisdiction of the Non-Removable Mille Lacs Bands of Chippewa Indians shall not extend to non-Indians.
  - (f) The jurisdiction of the Non-Removable Mille Lacs Bands of Chippewa Indians shall extend to all persons, political sub-divisions and their officers and agents, public or private corporations, associations, partnerships and any other individuals or entities who shall violate the environmental protection laws of the Band within the exterior boundaries of the Mille Lacs and Sandy Lake Reservations or on lands held in trust or

fee status in the name of the Band, as authorized pursuant to the laws of the United States of America.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 5.

#### **Cross References**

Jurisdiction of Court of Central Jurisdiction, *see* 5 MLBS §§ 111-113.

### **§ 10. Judicial Authority.**

- (a) The Court of Central Jurisdiction shall have original jurisdiction over any civil or criminal violation of the environmental protection laws of the Non-Removable Mille Lacs Bands of Chippewa Indians, subject to the provisions of 11 MLBS § 9.
- (b) The Court of Central Jurisdiction is hereby authorized to dismiss and transfer any cause of action where jurisdiction cannot be lawfully exercised, to any court of competent jurisdiction entitled to adjudicate said cause of action.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 6.

#### **Cross References**

Jurisdiction of Court of Central Jurisdiction, *see* 5 MLBS §§ 111-113.

### **§ 11. Duty to Notify and Avoid Pollution.**

It is the duty of every person subject to the jurisdiction of the Non-Removable Mille Lacs Bands of Chippewa Indians to notify the Environmental Protection Commission immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of the air, waters, lands or natural resources of the Band, and the responsible person shall recover as rapidly and as thoroughly as possible such substance or materials, and take immediately, such other action as may be reasonably possible to minimize or abate pollution of the air, waters or lands of the Band.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 8.

## **§ 12. Enforcement.**

The provisions of Subchapters 1 and 2 of this chapter and all regulations, standards, orders, stipulation agreements, schedules of compliance and permits adopted or issued by the Environmental Protection Commission for the prevention, control, or abatement of pollution of the air, water, lands or natural resources subject to the jurisdiction of the Mille Lacs Bands of Chippewa Indians may be enforced by any one or any combination of the following:

- (a) Criminal prosecution;
- (b) Action to recover civil penalties;
- (c) Injunctions;
- (d) Action to compel performance; or
- (e) Other appropriate action in accordance with other provisions of Subchapters 1 and 2 of this chapter.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 7.

## **§ 13. Law Enforcement and Natural Resources Officers; Powers.**

Any duly authorized law enforcement officer or natural resources officer of the Non-Removable Mille Lacs Bands of Chippewa Indians is hereby authorized to take all action to the extent of their authority that may be necessary or proper for the enforcement of Subchapters I and II of this chapter, regulations, standards, directives, stipulation agreements, variances; schedule of compliance or permits.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 7.01.

### **Cross References**

Enforcement, Environmental Protection Ordinance, *see* 11 MLBS § 105.

## **§ 14. Criminal Penalties.**

- (a) Any Indian who willfully or negligently violates any provision of Subchapters 1 and 2 of this chapter, or any standard, regulation, variance, directive, stipulation agreement, schedule of compliance or permit issued or adopted by any environmental

protection agency or government which violation is not included in subsection (b), shall upon conviction be guilty of an environmental offense and may be sentenced to imprisonment for no longer than one hundred and eighty days and/or a fine not to exceed five thousand dollars.

- (b) Any Indian who willfully or negligently violates any provision of Subchapter 1 or 2 of this chapter or the provision of any federal law enacted for the protection of the environment which is incorporated by reference into the laws of the Mille Lacs Bands of Chippewa Indians, shall upon conviction, be guilty of an environmental offense and may be punished by a fine schedule as promulgated by the Commissioner of Natural Resources.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 9.

#### **Cross References**

Violations and penalties, Environmental Protection Ordinance, *see* 11 MLBS § 106.

### **§ 15. Civil Penalties.**

- (a) Any person subject to the jurisdiction of the Band who violates any provision of Subchapter 1 or 2 of this chapter or any provision of any federal law enacted for the protection of the environment which is incorporated by reference into this chapter, or any standard regulation, variance, directive, stipulation agreement, schedule of compliance or permit issued or adopted by any environmental protection agency of government shall forfeit and pay to the Band a penalty, in an amount to be determined by the court, of not more than five thousand dollars per day of violation.
- (b) In addition, in the discretion of the court, the defendant may be required to:
  - (1) Forfeit and pay to the Band a sum which will adequately reimburse any vendor for the reasonable value of cleanup and other expenses directly resulting from unauthorized discharge of pollutants, whether or not accident; and
  - (2) Forfeit and pay to the Band an additional sum to constitute just compensation for any loss or destruction of wildlife, fish or other aquatic life, and birds and for other proven actual damages to the Band caused by an unauthorized discharge of pollutants.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 10.

### **Cross References**

Violations and penalties, Environmental Protection Ordinance, *see* 11 MLBS § 106.

### **§ 16. Defenses.**

As a defense to any said damages, the defendant may prove that the violation was caused solely by:

- (a) natural causes;
- (b) negligence on the part of the Mille Lacs Bands of Chippewa Indians of some other unit of government; or
- (c) an act or failure to act which constitutes sabotage or vandalism, or (d) any combination of the foregoing subsections.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 10.03.

### **§ 17. Actions to Recover Penalties or Damages.**

The civil penalties and damages provided for in 11 MLBS § 16 may be recovered by a civil action brought by the Solicitor General in the name of the Non-Removable Mille Lacs Bands of Chippewa Indians in the Court of Central Jurisdiction or in any other court of competent jurisdiction of the State of Minnesota or Wisconsin provided that this chapter is utilized to commence and determine the rights and obligations of the parties, pursuant to the provisions of 28 USC 1360(d) or any other applicable federal law.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 10.04.

### **Cross References**

State civil jurisdiction, Environmental Protection Ordinance violations, *see* 11 MLBS § 128.

### **§ 18. Actions for Declaratory or Equitable Relief.**

Any person residing on trust land subject to the jurisdiction of the Band, the Solicitor General, on behalf of the Band or any instrumentality or administration of the Band may maintain a civil

action in the Court of Central Jurisdiction for declaratory or equitable relief in the name of the Non-Removable Mille Lacs Bands of Chippewa Indians against any person, for the protection of the air, water, land or other natural resources located within the jurisdiction of the Band, whether publicly or privately owned, from pollution, impairment or destruction.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 11.

#### **§ 19. Exempt Acts.**

No action shall be permitted pursuant to 11 MLBS § 18 for acts taken by a person which do not and cannot reasonably be expected to pollute, impair, or destroy any other air, water, land or natural resources located within the jurisdiction of the Band. Neither shall actions be permitted under 11 MLBS § 18 for conduct taken by a person pursuant to established environmental quality standards of Band law, any regulation, rule, declaration, license, stipulation agreement or permit issued by the Mille Lacs Environmental Protection Commission.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 11.01.

#### **§ 20. Jurisdiction and Service of Process.**

As to any cause of action arising under 11 MLBS § 18, the Court of Central Jurisdiction may exercise personal jurisdiction to the extent permissible by the laws of the Mille Lacs Bands and the United States and service of process on any person who is subject to the jurisdiction of the Court of Central Jurisdiction may be made by personally serving the summons upon the defendant who may be outside of the jurisdiction of the Band with the same effect as though the summons had been personally served within the jurisdiction of the Band.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 14.

#### **Cross References**

Personal jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS § 113.

#### **§ 21. Notice to Band of Summons and Complaint.**

Within seven days after commencing such action, the plaintiff shall cause a copy of the summons and complaint to be served upon the Solicitor General and the Commissioner of Natural Resources.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 11.02.

#### **§ 22. Intervention.**

In any action maintained under 11 MLBS § 18, the Solicitor General may intervene as a matter of right and may appoint special counsel where as a result of such intervention he may represent conflicting or adverse interests. Other interested parties may be permitted to intervene on such terms as the court may deem just and equitable in order to effectuate the purposes and policies of Subchapters 1 and 2 of this chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 11.03.

#### **§ 23. Burden of Proof.**

- (a) In an action maintained pursuant to 11 MLBS § 18, where the subject of the action is conduct governed by any provision of Subchapter 1 or 2 of this chapter or an action by the Environmental Protection Commission, whenever the plaintiff shall have made a prima facie showing that the conduct of the defendant violates or is likely to violate any provisions of this Act or any action by the Environmental Protection Commission, the defendant may rebut the prima facie showing by the submission of evidence to the contrary.
- (b) In any other action maintained pursuant to 11 MLBS § 18, whenever the plaintiff shall have made a prima facie showing that the conduct of the defendant has, or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resource located within the jurisdiction of the Band, the defendant may rebut the prima facie showing by the submission of evidence to the contrary. The defendant may also show, by way of an affirmative defense, that there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety and welfare in light of the Band's paramount concern for the protection of the overall environment from pollution, impairment or destruction. Economic considerations alone shall not constitute a defense hereunder.
- (c) In an action maintained under 11 MLBS § 18, the plaintiff shall have the burden of proving that the environmental quality standard, limitation, regulation, rule, directive

license, stipulation agreement or permit is inadequate to protect the air, water, land or other natural resources located within the jurisdiction of the Band from pollution, impairment or destruction by showing material evidence of such inadequacy.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 12.

#### **§ 24. Collateral Estoppel.**

Where any action maintained pursuant to 11 MLBS § 18 results in a judgment in favor of the defendant that no violation of Subchapter 1 or 2 this chapter has occurred by said defendant, the judgment shall not stop the Band from re-litigation of any or all of the same issues with the same or other defendants unless the Band brought the prior action against the same or other defendant.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 11.04.

#### **§ 25. Res Judicata.**

Where any action maintained pursuant to 11 MLBS § 18 results in a judgment in favor of the plaintiff, the judgment shall be res judicata between the parties in any action the Band may bring against the same defendant.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 11.05.

#### **§ 26. Relief.**

The Court of Central Jurisdiction may grant declaratory relief, temporary and permanent equitable relief, or may impose such conditions on the party as are necessary or appropriate to protect the air, water, land or other natural resource located within the jurisdiction of the Band from pollution, impairment or destruction. When the court grants temporary equitable relief, it may require the plaintiff, except where the Band is plaintiff, to post a bond sufficient to indemnify the defendant for damages suffered because of the temporary relief, if permanent relief is not granted.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 13.

#### **Cross References**

Injunctions, Environmental Protection Ordinance, *see* 11 MLBS § 107.

#### **§ 27. Rights and Remedies Non-Exclusive.**

No existing civil or criminal remedy for any wrongful action shall be excluded or impaired by Subchapter 1 or 2 of this chapter. The rights and remedies herein shall be in addition to any administrative, regulatory, statutory or common law right and remedies now or hereafter available.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 15.

#### **§ 28. Statute of Limitations.**

Proceedings in respect of an environmental offense pursuant to any provisions of Subchapter 1 or 2 of this chapter, may be instituted at any time within three years after the time when the subject matter of the proceedings was discovered.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 17.

#### **§ 29. Recovery of Litigation Costs and Expenses.**

In any action brought by the Solicitor General, in the name of the Band, pursuant to Subchapter 1 or 2 of this chapter, for civil penalties, injunctive relief, or in an action to compel compliance, if the Band shall finally prevail, and if the proven violation was willful, the Band, in addition to other penalties provided in 11 MLBS § 15, may be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses incurred by the Band. In determining the amount of such litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 16.

### **§ 30. Sovereign Immunity.**

The Non-Removable Mille Lacs Bands of Chippewa Indians shall not be subject to any environmental suit in any court of competent jurisdiction without the expressed enactment of law by the Band Assembly.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 19.

### **§ 31. Construction.**

The Solicitor General or exterior legal counsel and the Court of Central Jurisdiction whichever is applicable, shall liberally construe the provisions of Subchapters 1 and 2 of this chapter so as to provide for the full force and effect of the purposes therein stated.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.I, § 18.

## **SUBCHAPTER 2**

### **ENVIRONMENTAL PROTECTION ORDINANCE**

#### **Section**

- 101. Title of Subchapter.**
- 102. Statement of Purpose.**
- 103. Definitions.**
- 104. Jurisdiction.**
- 105. Enforcement.**
- 106. Violations and Penalties.**
- 107. Injunctions.**
- 108. Notice of Violation.**
- 109. Default.**
- 110. Setting Hearing Date.**
- 111. Sewage Disposal System Permits.**
- 112. Permits Generally.**
- 113. Environmental Assessments and Impact Statements.**
- 114. Format for The Environmental Impact Statement.**
- 115. Variances**
- 116. Water-Policy and Goals.**
- 117. Water-Definitions.**
- 118. Water-Standards.**

- 119. Air-Policy and Goals.**
- 120. Air-Definitions.**
- 121. Air-Standards.**
- 122. Soils-Policy and Goals.**
- 123. Soil-Definitions.**
- 124. Soils-Standards.**
- 125. Subsurface Resources.**
- 126. Forestry-Policy and Goals.**
- 127. Forestry-Standards.**
- 128. State Civil Jurisdiction.**

#### **Historical and Statutory Notes**

The Preamble of Band Statute 1091-MLC-24 provides: "It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians in order to exercise a more effective form of tribal government to regulate the natural resources of the Mille Lacs Band of Chippewa Indians."

#### **§ 101. Title of Subchapter.**

This subchapter shall be known as the Mille Lacs Band of Chippewa Indians Environmental Protection Ordinance.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.II, § 1.

#### **§ 102. Statement of Purpose**

The Mille Lacs Band of Chippewa Indians Natural Resource Protection Ordinance to protect the natural resources within the jurisdiction of the Mille Lacs Band of Chippewa Indians as defined under the Constitution of the Minnesota Chippewa Tribe pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), amended June 15, 1935 (49 Stat. 3781) and approved by the Secretary of Interior on July 24, 1936. This subchapter is to provide a uniform set of standards which are necessary to supplement the Mille Lacs Reservation's Conservation Code, so that hunting, fishing, trapping, wild rice and all other natural resources of Reservations' and Bands' may be preserved and protected. Where such Band laws and standards do not exist and are not promulgated, these laws and standards will apply. And whereas the Mille Lacs Band of Chippewa Indians finds that water is the primary resource of the natural resources system, the protection of the quality and quantity of the water resources is the primary objective of these laws and furthermore, the inter-relationships of water and other natural resources is such that the management of soil, timber, air and mineral resources has both direct and indirect effects upon the quality and quantity of the water, fish, wild rice and wildlife resources. These and all other interaction of resources will be considered when planning and management activities are engaged.

## Historical and Statutory Notes

### Source:

Band Statute 1091-MLC-24, § 1.01.  
Band Statute 1163-MLC-21, T.II, § 1.01.

### Cross References

Natural Resources Protection Code, *see* 11 MLBS § 2001.

### § 103. Definitions.

- (a) **"Band"** means the Mille Lacs Band of Chippewa Indians and the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians.
- (b) **"Clearcutting"** means any timber harvested and timber cutting on any and all tracts of land where the standing timber remains after harvesting or cutting is less than 40 trees of 8 inches or greater dbh per acre.
- (c) **"Day"** means a 24-hour period which shall be from 12:00:00 a.m. to 11:59:59 p.m. in the Central Time zone of the United States.
- (d) **"Lake"** means anybody or accumulation of water, whether natural or artificial, the majority of which is open water, which is an area 10 acres or more, and in depth at least 15 feet at some point.
- (e) **"Marsh, Wetland"** means anybody or accumulation of water whether natural or artificial, whether or not seasonal, where a majority area of the surface water contains emergent vegetation.
- (f) **"Non-Point Source"** means man-made or man-induced pollution from any and all sources not included in the point source definition.
- (g) **"Open Water"** means a water surface absent of emergent vegetation.
- (h) **"Person"** means any municipality, governmental sub-division, public or private corporation, individual, partnership, or other entity, including but not limited to association, commission or any interstate body, and includes any officer or governing or managing body of any municipality, governmental subdivision, or public or private corporation or other entity.
- (i) **"Point Source"** means any discernible, confined, and discrete conveyance, including but not limited to any pipe, stack, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

- (j) **"Pollution, Water Pollution, Air Pollution"** means the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of the waters or atmosphere of the Mille Lacs Band of Chippewa Indians.
- (k) **"Pond"** means anybody or accumulation of water, whether natural or artificial, the majority of which is open water, which is an area less than 10 acres, whether or not seasonal.
- (l) **"River, Stream"** means any waterway or watercourse, whether natural or artificial, whether or not seasonal, which follows a flow channel to any lake, pond, marsh, river or to any other accumulation of water.
- (m) **"Road"** means any roadway, whether paved; graveled or otherwise surfaced, which is maintained for public use of four-wheeled vehicles.
- (n) **"Standard"** means water quality and quantity standards, air quality standards and soil protection standards as outlined in this Mille Lacs Band of Chippewa Indians Resource Protection Ordinance.
- (o) **"Waters of the Mille Lacs Band of Chippewa Indians"** means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifer, irrigation system, drainage systems and all other accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon lands of the Mille Lacs Band of Chippewa Indians, and which are contained with, flow through or border upon any other lands where Mille Lacs Band of Chippewa Indians member's rights of hunting, fishing, trapping and gathering rice are reserved.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 2.  
Band Statute 1163-MLC-21, T.I, § 2.

#### **§ 104. Jurisdiction.**

- (a) The jurisdiction of the Mille Lacs Band of Chippewa Indians under this subchapter shall extend to:
  - (1) All lands within the exterior boundaries of the constituent Bands of the Non-Removable Mille Lacs Band of Chippewa Indians as created by treaty, Executive Order, or federal act, notwithstanding the issuance of any patent and including rights-of-way running through said land.
  - (2) All dependent Mille Lacs Band of Chippewa communities within the state of Minnesota.

- (3) All Mille Lacs Band of Chippewa Indians allotments, whether within or without the boundaries of member Bands, the Indian titles to which have not been extinguished, including rights-of-way running through the same.
- (b) Jurisdiction shall extend over all persons or corporations whether Indian or non-Indian.

**Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 3.  
Band Statute 1163-MLC-21, § 3.

**Cross References**

Jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS § 111.

**§ 105. Enforcement.**

This Title shall be enforced by Reservation Conservation Officers or any other duly appointed officers of the Mille Lacs Band of Chippewa Indians or its member Bands or any other persons as provided by the Ordinance of the Mille Lacs Band of Chippewa Indians or its member Bands.

**Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 4.  
Band Statute 1163-MLC-24, T. II, § 4.

**Cross References**

Law enforcement and natural resources officers, powers, environmental protection, *see* 11 MLBS § 13.

**§ 106. Violations and Penalties.**

Any violation of this subchapter shall be considered a civil offense subject to the following penalties:

- (a) Pay the cost of any necessary cleanup, restoration or reclamation caused by the violation, as ordered by the Court of Central Jurisdiction, or by any administrative body with jurisdiction.
- (b) Pay any actual damages for injury to property, life or resources of any person, corporation, or public body or governmental agency.

- (c) Pay as punitive damages a penalty of up to five hundred dollars per day for each day of continuing violation.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 5.  
Band Statute 1163-MLC-21, T.II, § 5.

#### **Cross References**

Civil penalties, environmental protection, *see* 11 MLBS § 15.  
Criminal penalties, environmental protection, *see* 11 MLBS § 14.

### **§ 107. Injunctions.**

All violations of this subchapter may be enjoined by order of any court with jurisdiction to prevent continuing violations. Any violation of said order shall be in addition to said above penalties and subject to punishment for contempt of court. Punishment for said contempt shall be at the discretion of the court, subject only to those limitations prescribed by law.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 5.04.  
Band Statute 1163-MLC-21, T. II, § 5.04.

#### **Cross References**

Actions for declaratory or equitable relief, environmental protection, *see* 11 MLBS § 18.

### **§ 108. Notice of Violation.**

The Mille Lacs Band of Chippewa Indians or its member Bands through their duly appointed officers shall give a written notice to any violators of this subchapter. Said notice shall be served upon any violator by giving a copy of said notice to the violator if he/she can be located within the jurisdiction of the Mille Lacs Band of Chippewa Indians or its member Bands. Service of said notice may be given to serving a copy to said violator or leaving the notice at the residence or place of business of said violator, with any adult and who resides in the residence or is employed at the business of the violator. In the event the person or business causing the violation is not within the jurisdiction of the Mille Lacs Band of Chippewa Indians or its member Bands, then a notice may be posted on the land where offense is occurring. It shall be posted in a conspicuous place. A copy shall also be mailed to the last known residence or business address of the violator.

Said notice shall specify the nature of the violation, the location of the violation, and the section of this subchapter being violated. It shall set a date for a hearing before the court or administrative body as established by Band law. Said hearing shall be no sooner than five days after service of said notice. In the event that no actual service can be made on a violator because he cannot be found, does not have a residence or place of business within the jurisdiction of the Mille Lacs Band of Chippewa Indians, then said notice of violation shall be published twice during two consecutive weeks in a newspaper in the county where said violation occurred. An affidavit of said publication shall be filed with the appropriate court or administrative body and shall constitute proof of service of said notice.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 6.  
Band Statute 1163-MLC-21, T.II, § 6.

#### **§ 109. Default.**

In the event a defendant fails to appear before the court or appropriate administrative body on the date set for a preliminary appearance, the court or administrative body may declare the defendant to be in default and award any appropriate relief to the complainant as provided by this subchapter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 6.01.  
Band Statute 1163-MLC-21, T.II, § 6.01.

#### **§ 110. Setting Hearing Date.**

In the event a defendant does appear on the date set in the notice of violation, the court or administrative body hearing said matter shall set a date as soon as practicable for a full evidentiary hearing on the violation if the defendant denies the violation or responsibility for the violation.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 6.02.  
Band Statute 1163-MLC-21, T.II § 6.02.

#### **§ 111. Sewage Disposal System Permits.**

- (a) Permits shall be required for all of the following activities and application for said permits shall be on forms supplied by the Mille Lacs Band of Chippewa Indians:

- (1) Construction of septic systems and drainfields, and any other type of individual or multifamily sewage disposal system, whether the construction is for a new system or for the up-grading of an old system.
  - (2) Municipal, community, and village sewage treatment plant, and any other sewage disposal system.
- (b) Approval for said permits shall be obtained from the Public Works Commissioner on the reservation where said activity will occur.
  - (c) Fees for said permits shall be the sum specified by the Band Ordinance and so stated on the appropriate application form.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 7.

Band Statute 1163-MLC-21, T.II, § 7.

#### **§ 112. Permits Generally.**

Permits shall be required for all of the following activities and application for said permits shall be on forms supplied by the Mille Lacs Band of Chippewa Indians. Approval for said permits must be obtained from the Department of Natural Resources on the reservation where said activity will occur. Fees for said permits shall be the sum specified by the Ordinance and so stated on the appropriate application form.

- (a) Any and all excavation, mining, road building, draining, dredging, filling, and any other earth removal or disposition projects with the exception of excavation necessary for single family housing units.
- (b) Any and all insecticide, herbicide, fungicide, algicide, and any other pesticide use, no matter the application procedure, with the exception for household use of pesticides for public health measures.
- (c) Any and all industrial and commercial point source discharges into the Mille Lacs Band of Chippewa Indians waters.
- (d) Any and all commercial and private non-point source discharges into the Mille Lacs Band of Chippewa Indians waters.
- (e) Any and all commercial and private air emissions relating to the production of goods, products or materials.

- (f) Any and all forestry clearcutting activities and cutting of timber by any method where the tract to be logged is adjacent to any lake, stream, pond or road.
- (g) Any and all developments and improvements of parks, landings, beaches, harbors and canals and other related facilities, whether public or private.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 8.  
Band Statute 1163-MLC-21, T.II, § 8.

#### **Cross References**

Herbicides, use on noxious weeds, *see* Nat. Res. Comm. Order 133-90.

### **§ 113. Environmental Assessments and Impact Statements.**

The issuance of any and all permits will be preceded by an Environmental Assessment Worksheet. These assessments shall be completed by the MLBC Research Laboratory, based upon work plans submitted by the permittee and site inspection, laboratory analysis and any other pertinent data. If in the findings of the assessment, an Environmental Impact Statement is proposed, then a public hearing to determine the necessity of the Environmental Impact Statement will be conducted. If an Environmental Impact

Statement is requested by the Mille Lacs Band of Chippewa Indians Environmental Board, the MLBC Research Laboratory will produce and present, within ninety days of the date of request, and at the permittee's expense, an EIS for public hearing before said Mille Lacs Band of Chippewa Indians Environmental Board. The decision of the Mille Lacs Band of Chippewa Indians Environmental Board for issuance or non-issuance of the permit based on the findings of the EIS shall be final.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 9.  
Band Statute 1163-MLC-21, T.II, § 9.

### **§ 114. Format for the Environmental Impact Statement.**

The components of all Environmental Impact Statements shall be as follows:

- (a) environmental impacts, both beneficial and degrading;
- (b) social impacts, both beneficial and degrading; and

- (c) economic impacts, both beneficial and degrading.

**Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 10.  
Band Statute 1163-MLC-21, T.II, § 10.

**§ 115. Variances.**

Any and all requests for a variance from the provisions of this subchapter shall be presented before, and subject to the approval of the appropriate Mille Lacs Band Assembly in the manner they shall prescribe. The decision of the Mille Lacs Band Assembly shall be final.

**Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 11.  
Band Statute 1163-MLC-21, T.II, § 11.

**§ 116. Water-Policy and Goals.**

The waters of the Mille Lacs Band of Chippewa Indians will be protected from degradation. The quality of the water will be maintained or improved to guarantee the treaty rights of the members of the Mille Lacs Band of Chippewa Indians.

**Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 12.  
Band Statute 1163-MLC-21, T.II, § 12.

**Cross References**

Injection wells, *see* Nat. Res. Comm. Order 107-89.

**§ 117. Water-Definitions.**

- (a) **"Ambient"** means that concentration which exists without point source pollution as established by MLBC Research Lab.
- (b) **"LC<sub>50</sub>"** means the concentration of toxicant that is lethal (fatal) to 50 percent (50%) of the sensitive resident species organisms tested under the test conditions in a specific time.

- (c) **"Toxicant, Toxic Substance"** means those pollutants or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the MLBC, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organism or its offspring.

**Historical and Statutory Notes**

**Source:**

Band Statute 1163-MLC-21, T.II, §§ 13.01-13.03.  
 Band Statute 1091-MLC-24, §§ 13.01-13.03.

**§ 118. Water-Standards.**

- (a) All standards will be interpreted to mean a maximum allowable limit unless otherwise stated.

<u>Constituent</u>	<u>Concentration or Limits</u>
Alkalinity	20 mg/l or more as CaCO <sub>3</sub> for fresh water aquatic life except where natural concentration are less
Ammonia	.02 mg/l as (un-ionized ammonia) for fresh water aquatic life
Arsenic	50 ug/l for domestic water supply
Barium	1 mg/l for domestic water supply
Beryllium	11 ug/l for the protection of aquatic life in soft fresh water 1,100 ug/l for the protection of aquatic life in hard fresh water
Boron	750 ug/l
Cadmium	10 ug/l for domestic water supply.
	<u>Aquatic Life</u> Soft Water: 0.4 ug/l Hard Water: 1.2 ug/l
Chlorine	2.0 ug/l for salmonid fish 10 ug/l for other fresh water fish
Chromium	50 ug/l for domestic water supply 100 ug/l for fresh water aquatic life

Fecal Coliform Bacteria Color	200 colonies/100 ml. 75 color units on platinum-cobalt scale for domestic water supplies								
Copper	1 mg/l for domestic water supply 0. 1 X 96 hours LC <sub>50</sub> for fresh water aquatic life								
Cyanide	5.0 ug/l for fresh water aquatic life								
Gases, total dissolved	110% of saturation at existing atmosphere and hydrostatic pressures								
Iron	0.3 mg/l for domestic water supply 1.0 mg/l for fresh water aquatic life								
Lead	50 ug/l for domestic water supply 0. 1 X 96 hour LC <sub>50</sub> for fresh water aquatic life								
Manganese	50 ug/l for domestic water supply and fresh water aquatic life								
Mercury	2.0 ug/l for domestic water supply .05 ug/l for fresh Water aquatic life								
Nickel	. 01 X 96 hour LC <sub>50</sub> for fresh water aquatic life								
Nitrate, Nitrite	10 mg/l nitrate nitrogen for domestic water supply, not to exceed ambient NO <sub>2</sub> -NO <sub>3</sub> for all water systems, as established by MLBC Research Lab								
Oil and Grease	Domestic water supplies virtually free from oil and grease .01 X 96 hour LC <sub>50</sub> for fresh water aquatic life								
Dissolved Solids and Salinity	250 mg/l for chlorides and sulfates in domestic water supply.								
	<table border="1"> <thead> <tr> <th>Natural Salinity %</th> <th>% Variation Permitted</th> </tr> </thead> <tbody> <tr> <td>0-3.5</td> <td>1</td> </tr> <tr> <td>3.5-13.5</td> <td>2</td> </tr> <tr> <td>13.5-35</td> <td>4</td> </tr> </tbody> </table>	Natural Salinity %	% Variation Permitted	0-3.5	1	3.5-13.5	2	13.5-35	4
Natural Salinity %	% Variation Permitted								
0-3.5	1								
3.5-13.5	2								
13.5-35	4								
Settleable and Suspended Solids and Turbidity	Fresh water fish and other aquatic life; settleable and suspended solids should not reduce the depth of the compensation point for photosynthetic activity								
Sulfide	2 ug/l undissociated H <sub>2</sub> S for fresh water aquatic life								

Sulfate	Not to exceed ambient SO <sub>4</sub> for all waters, as established by MLBC Research Lab
Temperature	No thermal pollution shall be discharged into any waters on the reservations
Dissolved O <sub>2</sub>	5.0 mg/l minimum for fresh water aquatic life
Pesticides	No measurable amounts of any pesticide or any other toxicant will occur in any surface or groundwater
pH	5-9 for domestic water supply 5.5-9.0 for fresh water aquatic life
Phenol	1 ug/l for all waters
Phosphorus	Not to exceed ambient total phosphorus for all water systems as established by MLBC Research Lab
Polychlorinate Biphenyls (PCB)	.001 ug/l for all waters
Phthalate esters	.1 ug/l for fresh water aquatic life
Selenium	10 ug/l for domestic water supply .01 X 96 hour LC <sub>50</sub> for fresh water aquatic life
Silver	50 ug/l for domestic water supply .01 X 96 hour LC <sub>50</sub> for fresh water aquatic life
Zinc	5 mb/l for domestic water supply .01 X 96 hour LC <sub>50</sub> for fresh water aquatic life

- (b) Any and all man made or man induced regulation of water flow on or through any Reservation of the Mille Lacs Band of Chippewa Indians shall be subject to the stipulations set forth in this subchapter for the provision of adequate water quantities for the preservation and protection of natural resources.
- (c) No littering, refuse or garbage disposal will be permitted in any waters of the Mille Lacs Band of Chippewa Indians.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, §§ 13, 14.  
 Band Statute 1163-MLC-21, T.II, §§ 13, 14.

## Cross References

Litter, *see* 11 MLBS § 201.

Solid waste disposal, *see* 11 MLBS § 1001.

### § 119. Air-Policy and Goals.

The air quality within the reservations is affected by many pollutants and chemicals, which may travel through the atmosphere from distant sources. These chemicals and pollutants are deposited on reservation lands and waters, the result being a direct threat to the natural resources of the reservation. Pursuant to Class I-Air Quality.

#### Historical and Statutory Notes

**Source:**

Band Statute 1091-MLC-24, § 15.

Band Statute 1163-MLC-21, T. II, § 15.

### § 120. Air-Definitions.

"**BACT, best available control technology**" means that method of limiting emissions to the minimum amount possible.

#### Historical and Statutory Notes

**Source:**

Band Statute 1091-MLC-24, § 16.

Band Statute 1163-MLC-21, T.II, § 16.

### § 121. Air-Standards.

These standards will be those as set forth by 42 U.S.C. § 7474 and the Clean Air Act. (42 U.S.C. § 7401 et seq.)

#### Historical and Statutory Notes

**Source:**

Band Statute 1091-MLC-24, § 17.

Band Statute 1163-MLC-21, T.II, § 17.

### § 122. Soils-Policy and Goals.

The soils within the jurisdiction of the Mille Lacs Band of Chippewa Indians are an integral part of the total natural resource spectrum. Fish, furbearers, wild rice and other wildlife are directly

affected by the types of, and the maintenance of, vegetative cover upon the soils. The management of these soils will be within this context. The Band and its members shall make every reasonable effort to use alternatives to harmful chemicals upon the soils. Notwithstanding the previous sentence, herbicides, pesticides, and other chemicals may be used on the soils to the extent determined necessary, subject to approval of the appropriate permit under § 112.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 18.  
Band Statute 1163-MLC-21, T.II, § 18.  
Band Ordinance 55-21.

### **§ 123. Soil-Definitions.**

"Soil" means all soils, metals, minerals, gases, liquid, gravels or other elemented or complexed materials, in any physical state, which lie on or in the earth's surface to a depth of 15 feet.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 19.  
Band Statute 1163-MLC-21, T.II, § 19.

### **§ 124. Soils-Standards.**

- (a) Natural erosion rectification measures, such as seeding, planting or otherwise establishing vegetative cover, will be utilized by the landowner.
- (b) Permits will be required for any project or development other than farming which involves excavation, soil removal or disposition, and shall include provisions for the seeding or planting to establish vegetative cover.
- (c) Agricultural lands shall be protected from wind and water erosion through the use of sound agricultural principles, including but not limited to, terracing, tree breaks, grass waterways and maintaining vegetative cover on tilled lands during the non-growing season.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 20.  
Band Statute 1163-MLC-21, T.II, § 20.

### **§ 125. Subsurface Resources.**

Groundwater-refer to 11 MLBS § 103. All other subsurface resources will be managed at the discretion of the Mille Lacs Band of Chippewa Indians-Department of Natural Resources. Management will include analysis of potential environmental effects for all exploration, mining, or extractions, which are or may be practiced on the lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 21.  
Band Statute 1163-MLC-21, T.II, § 21.

#### **§ 126. Forestry-Policy and Goals.**

The forestry resource on the lands under the jurisdiction of the Mille Lacs Band of Chippewa Indians will be managed to preserve and protect said lands in a perpetually productive state. This will be done by applying sound silvicultural practices to the harvesting of the timber, and by making provision for new forest growth as timber is removed. The guiding document shall be CFR 25, Part 141, Forestry Manual 53 BIAM, dated June 21, 1978, and supplements. Any superseding documents pertaining to forestry management on Indian lands will be subject to the approval of the governing body of the Mille Lacs Band of Chippewa Indians.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1091-MLC-24, § 22.  
Band Statute 1163-MLC-21, T.II, § 22.

#### **Cross References**

Firewood harvest, *see* 11 MLBS § 2401.

#### **§ 127. Forestry-Standards.**

- (a) No clearcutting of timber will be permitted within a 100-foot border of any lake, pond or river.
- (b) No clearcutting of timber will be permitted within 100 feet of any road.
- (c) Permits for logging will include stipulations for the re-seeding of logged area and logging equipment trails.
- (d) Users of insecticides, herbicides, or any other chemical or pesticides for forestry management activities will be required to obtain a permit.

## Historical and Statutory Notes

### Source:

Band Statute 1091-MLC-24, § 23.  
Band Statute 1163-MLC-21, T. II, § 23.

### § 128. State Civil Jurisdiction.

Any person, upon a violation of Subchapter 1 or 2 of this chapter, may bring a civil cause of action in the appropriate state court seeking damages pursuant to the provisions of Title 28, United States Code, § 1360; P.L. 83-280 which states:

"Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this Section."

## Historical and Statutory Notes

### Source:

Band Statute 1091-MLC-24, § 24.  
Band Statute 1163-MLC-21, T. II, § 24.

### Cross References

Actions to recover penalties or damages, environmental protection, *see* 11 MLBS § 17.

## SUBCHAPTER 3

### LITTER

#### Section

- 201. Definitions.**
- 202. Littering.**
- 203. Littering on Highways.**
- 204. Littering in Natural Areas.**
- 205. Litter Removal In Lieu of Forfeiture.**

### Cross References

Water standards, Environmental Protection Ordinance, *see* 11 MLBS § 118.

### § 201. Definitions.

**“Litter”** means things lying about in disorder; bits or scraps of rubbish scattered about; untidiness, disorder; to make messy or untidy with things scattered about; to scatter about carelessly.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1164-MLC-6, § 8.09.

#### **§ 202. Littering.**

Whoever unlawfully deposits garbage, rubbish, offal, or the body of a dead animal, or other litter in or upon any public or tribal highway, public waters or the ice thereon, public or tribal lands, or without the consent of the owner, private land, or water or ice thereon, shall be subject to a forfeiture not to exceed \$25.00.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1164-MLC-6, § 56.

#### **§ 203. Littering on Highways.**

- (a) Any person who shall throw, deposit, place or dump, or cause to be thrown, deposited, placed or dumped upon any street or highway or upon any public, tribal or privately owned land adjacent thereto without the owner's consent any snow, ice, glass bottle, glass, nails, tacks, wire, cans, garbage, swill, papers, ashes, refuse, carcass of any dead animal, offal, trash or rubbish or any other form of offensive matter or any other substance likely to injure any person, animal or vehicle upon any such street or highway shall be subject to a forfeiture not to exceed \$500.00.
- (b)
  - (1) Any person who drops, or permits to be dropped or thrown, upon any highway any of the material specified in subsection (a), shall immediately remove the same or cause it to be removed.
  - (2) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.
- (c) No person shall drop or hurl any destructive or injurious material or object at or upon any motor vehicle upon any highway or the occupants thereof.
- (d)

- (1) Any person who violates any provision of subsection (b) or (c), shall be subject to a forfeiture not to exceed \$500.00.
- (2) Any person who violates any provision of subsection (a) or (b)(1) shall be subject to a forfeiture not to exceed \$5,000.00.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1164-MLC-6§§57, 58.03.

#### **Cross References**

Solid waste, disposal onto highways or roads, *see* 11 MLBS § 1009.

### **§ 204. Littering in Natural Areas.**

- (a) No person shall drain, throw or deposit upon the lands and waters within a natural area designated by the Commissioner of Natural Resources any substance that would mar the appearance, create a stench, destroy the cleanliness or safety of the land, or would be likely to injure any animal, vehicle, or person traveling upon those lands and waters. The operator of a vehicle or watercraft, except a school bus or a vehicle transporting passengers for hire and regulated by the Interstate Commerce Commission, shall not permit articles to be thrown or discarded from the vehicle upon any lands or waters within a natural area so designated.
- (b) Any person who, within the limits of any natural area designated by the Commissioner of Natural Resources shall willfully cut, injure, or destroy any live tree, shrub, timber, evergreen, or ornamental plant of any kind, or who shall willfully injure, remove, destroy, deface, or mutilate any guide-board, guide-post, furniture, fixture, improvement, monument, tablet, or other public or tribal property shall be subject to a forfeiture not to exceed \$5,000.00.
- (c) The Commissioner of Natural Resources is delegated the authority to designate natural areas for the purpose of subsections (a) and (b). Such areas shall have positive outdoor values which may include but need not be limited to recreation, hunting, fishing, trapping, ricing, scenic beauty, or spiritual significance.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1164-MLC-6, § 58.

### **§ 205. Litter Removal In Lieu of Forfeiture.**

The Court of Central Jurisdiction may, in lieu of imposing the forfeiture provided for by 11 MLBS §§ 202 and 203, permit any person to remove litter from public or tribal lands under the direction of the Commissioner of Natural Resources for a period of time to be set by the Court.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1164-MLC-6, § 58.03.

## **CHAPTER 2**

### **SOLID WASTE DISPOSAL AND RECYCLING**

#### **Section**

- 1001. Definitions.**
- 1002. Solid Waste Handling and Storage.**
- 1003. Responsibility of Owner or Occupant.**
- 1004. Containers.**
- 1005. Timely Transfer to Collection or Disposal Sites.**
- 1006. Dumping.**
- 1007. Collection or Disposal Site Operations.**
- 1008. Waste from Outside Band Territory.**
- 1009. Disposal onto Highways or Roads.**
- 1010. Public Nuisances and Health Hazards.**
- 1011. Hazardous Waste Disposal.**
- 1012. Recycling.**
- 1013. Collection and Transport.**
- 1014. Fees.**
- 1015. Powers of Tribal Police and Conservation Officers.**
- 1016. Sanctions.**
- 1017. Administration.**
- 1018. Sovereign Immunity.**

#### **Historical and Statutory Notes**

Band Statute 1233-MLC-20, T.II, § 10 provides: "Section 10. Severability. If any provision of this Title or its application to any person or set of circumstances is held invalid, the remainder of the Title or its application to other persons or circumstances shall not be affected."

#### **Cross References**

Water standards, Environmental Protection Ordinance, *see* 11 MLBS § 118.

#### **§ 1001. Definitions.**

The following definitions shall apply to the terms listed as used throughout this chapter:

- (a) **“Collection site”** means those places at which the Band or Band-licensed collectors receive solid waste.
- (b) **“Collector”** means any natural or legal person, including such person's employees and agents, who gather another person's solid waste.
- (c) **“Hazardous waste”** means any solid waste deemed hazardous by the U.S. Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, (42 U.S.C.A. § 6901 et seq.) as amended.
- (d) **“Resident”** means any person who has a permanent residence or place of business within the territorial jurisdiction of the Mille Lacs Band, including temporary or seasonal residences or businesses.
- (e) **“Solid waste”** means all waste, garbage, rubbish, trash and other discarded solid waste material resulting from residential, commercial, agricultural, industrial, community and other human activities, including hazardous waste and liquid waste contained within solid waste, but excluding sewage and related human waste.
- (f) **“Solid waste operator”** means Mille Lacs Band employees, appointees or contractors who are responsible for the operation and maintenance of any solid waste collection or disposal sites within the territorial jurisdiction of the Band.
- (g) **“Transfer station”** means the existing solid waste collection site owned by the Mille Lacs Band for the purpose of collecting, transporting, and disposing of solid waste.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 2.

#### **§ 1002. Solid Waste Handling and Storage.**

Solid waste within the territorial jurisdiction of the Mille Lacs Band shall be handled, stored, collected, transported, transferred, processed and disposed of in accordance with the provisions of this chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 3.

### **§ 1003. Responsibility of Owner or Occupant.**

Except as otherwise provided in this chapter, the owner or occupant of any premises shall be responsible for the sanitary storage of all of the solid waste produced by such person and accumulated at the premises. Unless otherwise provided for in a written rental agreement or lease, the tenant of any single-unit detached residence and the landlord of any multi-unit residence shall be responsible for the provision and maintenance of solid waste storage containers pursuant to 11 MLBS § 1004.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 3.01.

### **§ 1004. Containers.**

Solid waste shall be stored in durable, rust resistant, nonabsorbent, water tight, rodentproof and easily cleanable containers possessing a close-fitting, insect-tight cover.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T. II, § 3.02.

### **§ 1005. Timely Transfer to Collection or Disposal Sites.**

Solid waste shall be transferred to Band approved collection sites or E.P.A. approved disposal sites in a timely manner, in order to prevent noxious odors and other public nuisances or health conditions, by the person responsible for the provision and maintenance of solid waste storage containers.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 3.03.

### **§ 1006. Dumping.**

No person shall leave, deposit, or dump solid waste within the territorial jurisdiction of the Mille Lacs Band, except that solid waste may be temporarily deposited in storage containers pursuant to 11 MLBS §§ 1002 to 1005 and may be deposited at approved collection and disposal sites.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 4.

**§ 1007. Collection or Disposal Site Operations.**

Solid waste disposal at approved collection or disposal sites within the territorial jurisdiction of the Band shall only be in the manner and during the posted daytime hours of operation prescribed by the Public Works Commission.

**Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 4.01.

**§ 1008. Waste from Outside Band Territory.**

No person shall dispose of solid waste generated on lands outside the territorial jurisdiction of the Band, nor shall a non-resident dispose of any solid waste, on lands within the territorial jurisdiction of the Band without the permission of the Band.

**Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 4.02.

**§ 1009. Disposal onto Highways or Roads.**

No person shall dispose of solid waste from any stopped or moving vehicle onto federal, state, county or Band highways, roads or right-of-ways within the territorial jurisdiction of the Band.

**Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 4.03.

**Cross References**

Littering on highways, *see* 11 MLBS § 203.

**§ 1010. Public Nuisances and Health Hazards.**

No person shall dispose of or burn solid waste on any lands within the territorial jurisdiction of the Band in a manner that is likely to cause a public nuisance or health hazard.

**Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 4.04.

**Cross References**

Nuisance, *see* 24 MLBS § 301.

**§ 1011. Hazardous Waste Disposal.**

Hazardous waste shall not be disposed of on lands within the territorial jurisdiction of the Band.

**Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 4.05.

**§ 1012. Recycling.**

The Public Works Commission shall seek assistance from county, state, federal and other sources for the purposes of developing and maintaining a waste recycling program and collection site for the Band for the purposes of reducing waste and disposal costs and conserving natural resources. The Commission shall encourage residents to cooperate with waste recycling programs.

**Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 5.

**§ 1013. Collection and Transport.**

- (a) All solid waste shall be transported in a manner which prevents the waste from leaking, blowing or falling off of the transport vehicle.
- (b) Commercial vehicles or containers used for the collection and transportation of solid waste shall be covered, leak-proof, durable and of easily cleanable construction. The vehicles and containers shall be cleaned regularly in order to prevent nuisances, pollution and insect breeding and shall be maintained in good repair.
- (c) Commercial collectors and transporters of solid waste shall be required to obtain a license from the Public Works Commission prior to commencing any collection or transportation activities on lands within the territorial jurisdiction of the Mille Lacs Band. Obtaining a license pursuant to this Section does not exempt a person or entity from any other provision of the Mille Lacs Band Statutes Annotated requiring a license or permit in order to conduct business.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 6.

### **§ 1014. Fees.**

The Public Works Commission shall establish fees to be charged to individuals and businesses for the disposal of solid waste at designated collection and disposal sites. These fees shall be reviewed at least annually by the Commission.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 7.

### **§ 1015. Powers of Tribal Police and Conservation Officers.**

All Mille Lacs Band Tribal Police and Conservation Officers shall be empowered to enforce this chapter.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 8.

### **§ 1016. Sanctions.**

- (a) A fine, not to exceed \$5000.00, may be imposed for each violation of this chapter. Each day during which a violation exists shall constitute a separate violation. Any personal property, including vehicles and other equipment, which has been used in connection with a violation may be seized and forfeited.
- (b) In addition to any judicially imposed sanctions, the Public Works Commission may revoke the license of any violator of this chapter.
- (c) Nothing herein shall prevent the Mille Lacs Band or an individual party from bringing suit in the Court of Central Jurisdiction in order to obtain injunctive relief or money damages because of a violation of this chapter.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 8.

### **Cross References**

Nuisance, *see* 24 MLBS § 301.

### **§ 1017. Administration.**

The Mille Lacs Band of Chippewa Indians-Public Works Commission shall temporarily be responsible for the administration of this chapter and of any Band-owned solid waste collection facilities or systems.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20. T.II, § 1.

### **Cross References**

Public Works Commission, *see* 13 MLBS § 1.

### **§ 1018. Sovereign Immunity.**

Nothing contained in this chapter shall be construed as a waiver of sovereign immunity by the Mille Lacs Band of Chippewa Indians.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1233-MLC-20, T.II, § 9.

## **CHAPTER 3**

### **NATURAL RESOURCE PROTECTION CODE**

<b><u>Subchapter</u></b>	<b><u>Section</u></b>
<b>1. General Provisions</b>	<b>2001</b>
<b>2. Fishing</b>	<b>2101</b>
<b>3. Hunting and Trapping</b>	<b>2201</b>
<b>4. Wild Rice</b>	<b>2301</b>
<b>5. Firewood Harvest</b>	<b>2401</b>
<b>6. Fires</b>	<b>2501</b>
<b>7. Enforcement</b>	<b>2601</b>

### **Historical and Statutory Notes**

The Preamble of Band Statute 1162-MLC-50 provides: "It is enacted by the Band Assembly of the Non-Removable Mille Lacs Band of Chippewa Indians, for the purposes of preserving the political integrity, protecting economic security and promoting the health and welfare of Band members, a Code for the regulation and protection of natural resources which regulate all hunting, trapping, fishing and gathering of wild rice within the territories governed by the Mille Lacs Band and this Code shall be enforced against Band members and others under the jurisdiction of the Band." Band Statute 1162-MLC-50, §§ 1 and 4.12 provide:

"Section 1. Scope of Amending Provision. Band Statutes 1017-MLC-7, 1030-MLC-7 are hereby repealed in their entirety and replaced by the provisions of this act."

"Section 4.12. Section Headings. Section headings and titles are provided for the convenience of the reader.

They are not part of the statute and do not modify the language otherwise stated." Band Ordinance 07-97 (Chapter 5, § 4001 et seq., of this Title), § 1.08 provides: "All Band ordinances, resolutions and orders inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes greater restrictions than those contained in any other ordinance, resolution or order, the provisions of this ordinance shall govern."

### **Cross References**

1837 Treaty Conservation Code for the Minnesota Ceded Territory, *see* 11 MLBS § 4001.

Great Lakes Indian Fish and Wildlife Compact, *see* 2 MLBS § 1151

Purple loosestrife control, *see* Nat.Res.Comm. Orders 108-89, 133-90.

Search lights (sky trackers), regulation of use, *see* Nat.Res.Comm. Order 172-93.

Shoreland area management, *see* Nat.Res.Comm. Order 170-93.

## **SUBCHAPTER 1**

### **GENERAL PROVISIONS**

#### **Section**

**2001. Definitions.**

**2002. Powers of Commissioner of Natural Resources.**

**2003. Duties of Commissioner of Natural Resources.**

**2004. Geographical Restriction of Regulations.**

**2005. Off-Reservation Regulations.**

**2006. Orphan Animals.**

**2007. Taking for Religious or Ceremonial Purposes.**

**2008. Medicinal Plants.**

#### **§ 2001. Definitions.**

As used in this chapter, the following terms shall have the meanings given to them in this section:

- (a) **“Band Fishing License”** means a license issued by the Commissioner of Natural Resources to a member of the Mille Lacs Band of Chippewa, which license authorizes him to fish in accordance with the provisions of this chapter.
- (b) **“Band Hunting License”** means a license issued by the Commissioner of Natural Resources to an enrollee of the Mille Lacs Band of Chippewa Indians, which license authorizes him to hunt or trap in accordance with the provisions of this chapter.
- (c) **“Band Ricing License”** means a license issued by the Commissioner of Natural Resources to an enrollee of the Mille Lacs Band of Chippewa Indians, which license authorizes him to gather wild rice in accordance with the provisions of this chapter.
- (d) **“Big Game”** means deer, bear, elk and moose.
- (e) **“Closed Season”** means the period during which protected wild animals may not be taken.
- (f) **“Commercial Fishing Permit”** means a permit issued by the Commissioner of Natural Resources to a Mille Lacs Band of Chippewa Indians enrollee under 11 MLBS § 2114.
- (g) **“Commercial Purposes”** means the taking of fish for barter or sale.
- (h) **“Commercial Taking”** means the taking of big game, small game or fur bearing animals for the purpose of barter or sale of furs, pelts, hides or the flesh of such animals.
- (i) **“Elderly”** means Band member or non-Band member who is enrolled in a federally recognized tribe, shall be defined as one who has attained the chronological age of fifty-five (55).
- (j) **“Firearm”** means any gun from which a shot or projectile is discharged by means of an explosive, gas or compressed air.
- (k) **“Fur Bearing Animals”** mean beaver, mink, marten, raccoon, fisher, fox, wolf, muskrat and otter.
- (l) **“Game Fish”** include brook trout, brown trout, crappie, grayling, lake trout, large mouth bass, muskellunge, northern pike, rainbow trout, rock bass, sauger, small mouth bass, sturgeon, sunfish and walleye.
- (m) **“Migratory Birds”** mean any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in 50 C.F.R. section 10.13, or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists or is composed in whole or in part of any such bird or any part, nest or egg thereof.

- (n) **“Mille Lacs Reservation”** means all land within the exterior boundary described in the Treaty of 1855, to wit: "the following fractional townships, viz: forty-two north, of range twenty-five west; forty-two north, of range twenty-six west; and forty-two and forty-three north, of range twenty-seven west; and also, the three islands in the southern part of Mille Lacs, exterior boundary of Sandy Lake Reservation as described in the Treaty of 1855, all contiguous waters, and all other trust properties under the jurisdiction of the Mille Lacs Band, its enrolled members, and of the Minnesota Chippewa Tribe and delegated to the Non-Removable Mille Lacs Band of Chippewa Indians."
- (o) **“Motor Vehicle”** means self-propelled motor driven vehicles.
- (p) **“Non-Band Fishing License”** means a license issued by the Commissioner of Natural Resources to any member of a federally recognized Tribe who is not enrolled in the Mille Lacs Band of Chippewa Indians, which license authorizes him to fish in accordance with this chapter.
- (q) **“Non-Band Hunting License”** means a license issued by the Commissioner of Natural Resources to any member of a federally recognized Tribe who is not enrolled in the Mille Lacs Band of Chippewa Indians, which license authorizes him to hunt in accordance with this chapter.
- (r) **“Non-Band Ricing License”** means a license issued by the Commissioner of Natural Resources to a member of a federally recognized Tribe who is not enrolled in the Mille Lacs Band of Chippewa Indians which license authorizes him to gather wild rice in accordance with this chapter.
- (s) **“Non-Game Fish”** include buffalo fish, burbot, bullheads, carp, catfish, coho, dogfish, gar, quillback, perch, sheephead, suckers, tulibee, and whitefish.
- (t) **“Non-Indian Fishing License”** means a license issued by the Commissioner of Natural Resources to anyone who is not eligible for a license under 11 MLBS § 2101 or 2107, which authorizes such person to fish in accordance with this chapter.
- (u) **“Non-Indian Hunting License”** means a license issued by the Commissioner of Natural Resources to anyone who is not eligible for a license under 11 MLBS §§ 2201 or 2208, which authorizes such person to hunt in accordance with this chapter.
- (v) **“Non-Indian Ricing License”** means a license issued by the Commissioner of Natural Resources to anyone who is not eligible for a license under 11 MLBS §§ 2301 or 2303, which authorizes such person to gather wild rice in accordance with this chapter.
- (w) **“Non-Removable or Mille Lacs Band of Chippewa”** shall be the duly constituted and successor tribal government of the Mille Lacs Band.

- (x) **“Open Season”** means the period during which wild animals may be taken.
- (y) **“Paddy Rice”** means that wild rice crop grown in artificially constructed paddies.
- (z) **“Personal Use”** means the taking of fish for any purpose other than commercial purposes.
- (aa) **“Possession”** means both actual and constructive possession and any control of the things referred to.
- (bb) **“Protected Wild Animals”** shall include all wild animals which are accorded some measure of protection in the name or manner of taking.
- (cc) **“Small Game”** means all wild animals and birds not defined as big game or fur bearing animals or game or non-game fish.
- (dd) **“Special Permit”** means a permit issued by the Commissioner of Natural Resources, or his designee, exempting the recipient from one or more of the regulations contained herein, upon a finding by him that granting of the exemption will not endanger the resource.
- (ee) **“Taking”** or **“Hunting”** shall include pursuing, shooting, killing, capturing, trapping, snaring and netting wild animals and all lesser acts such as intentionally disturbing, harrying, worrying or placing, setting drawing, using any net, trap or other device to take wild animals, and includes every attempt to take, every act of assistance to any other person in taking or attempting to take wild animals.
- (ff) **“Transport”** or **“Transportation”** means carrying or moving by any instrumentality, attempting to do so, or accepting or receiving wild animals for transportation or shipment.
- (gg) **“Wild Animals”** means all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, and includes quadruped, mammals, birds, fish, amphibious reptiles, crustaceans and mollusks.
- (hh) **“Wild Rice”** means that rice crop which grows naturally or as a result of reseeding in the natural lakes and waters, including lakes resulting from flood control structures, of the Mille Lacs Band of Chippewa Indians.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 2.

#### **Cross References**

Game violations, criminal offenses, *see* 24 MLBS § 1256.

"Wetland" defined, *see* Nat. Res. Comm. Order 162-92.

## **§ 2002. Powers of Commissioner of Natural Resources.**

The Commissioner of Natural Resources shall have powers of regulation over all matters of land, air, water, environmental protections and anything and everything related to the conservation and protection of natural resources under the jurisdiction of the Mille Lacs Band of Chippewa Indians.

- (a) He shall have power to open and close all seasons for hunting, fishing, trapping, and the gathering of wild rice by the issuance of a Commissioner's order with the concurrence of the Spiritual Advisor on all matters related to his duties.
- (b) He shall be responsible for the development of a natural resource management plan and certify to the feasibility of all economic development plans which involve the natural resources with the concurrence of the Spiritual Advisor.
- (c) He shall have the power to make any and all regulations for the taking, possession and transportation of wild animals, fish, bird or grain from trust territory under the jurisdiction of the Band.
- (d) The Commissioner shall not possess authority over law enforcement officials under the jurisdiction of the Band.
- (e) The Commissioner may do all things deemed by him as desirable in the preservation, protection and propagation in their natural state of all desirable species of wild animal, bird, or fish upon the concurrence of the Spiritual Advisor.
- (f) The Commissioner shall have the power to acquire through gift, lease, purchase, in the name of the Band, lands or any interest in lands deemed suitable for the future interests of the Band.
- (g) He shall have power to negotiate contracts in the furtherance of natural resource development within the jurisdiction of the Band.
- (h) He shall have authority to secure funds from the government of the United States or any private foundation for the purpose of fulfilling his legal mandate.
- (i) He shall be a member of the Administration Policy Board.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 3.

### **Cross References**

Buck hunting season, *see* 11 MLBS § 2213.  
Commercial fishing regulations, *see* 11 MLBS § 2115.  
Doe hunting season, *see* 11 MLBS § 2212.  
Elk or moose season, *see* 11 MLBS § 2215.  
Fishing seasons, *see* 11 MLBS § 2107.  
Fur bearing animal season, *see* 11 MLBS § 2216.  
Hunting and trapping seasons, generally, *see* 11 MLBS § 2228.  
Migratory birds, regulatory authority, *see* 11 MLBS § 2285.  
Off reservation regulations, *see* 11 MLBS §§ 2004, 2005.  
Small game hunting season, *see* 11 MLBS § 2209.

### **§ 2003. Duties of Commissioner of Natural Resources.**

The Commissioner of Natural Resources shall perform all duties and responsibilities and shall exercise all authority delegated to him by the Mille Lacs Band of Chippewa Indians by this chapter, including, but not limited to:

- (a) Issuance of all Band licenses and permits authorized by this chapter.
- (b) Proposal of amendments to this chapter and adoption of additional regulations by Commissioner's Order as found necessary.
- (c) Setting of seasons where none are specifically provided, closing or shortening existing seasons when necessary for the preservation of the resource, or extending or opening seasons when it is determined that it will not harm the resource.
- (d) Setting limits on the manner or amount of taking of fish, game, or wild rice, when necessary for the conservation of the resource, or altering limits specifically provided by these regulations.
- (e) Waiving the fee for issuance of any license or permit authorized by this chapter to elderly Band members and elderly non-Band members who are enrolled in a federally recognized tribe.
- (f) Reviewing on an annual basis or more frequently the numbers of each type of permit or license outstanding, with particular emphasis on any commercial permits or specific permits which may be outstanding, to determine whether or not it is in the best interests of conservation to continue such licenses.
- (g) Keeping and maintaining an up-to-date and accurate list of all persons to whom each type of permit and license has been issued.
- (h) Revocation of any permit or license authorized by these regulations upon conviction of any violation of the Conservation Code of this or any other Minnesota Chippewa Tribe Reservation.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 3.01.

**§ 2004. Geographical Restriction of Regulations.**

All sections of the Mille Lacs Band Statutes Annotated and all Commissioner's Orders issued thereunder pertaining to fishing, spearing, netting, hunting, trapping, or ricing which do not by their terms apply to the off-reservation ceded territory as described by 2 MLBS § 107, apply only to activities undertaken on the Mille Lacs Reservation as defined by 11 MLBS § 2001(n).

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.60.

**§ 2005. Off-Reservation Regulations.**

The Commissioner of Natural Resources is delegated the authority to promulgate by Commissioner's Order regulations controlling member fishing, spearing, netting, hunting, trapping, and ricing in the off-reservation territory as described by 2 MLBS § 107.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.61.

**Cross References**

Migratory bird hunting off reservation, memorandum agreement with U.S. Fish and Wildlife Service, *see* Nat. Res. Comm. Order 144-90.

Taking fish by angling off of tribal lands, *see* Nat. Res. Comm. Order 171-93.

**§ 2006. Orphan Animals.**

Any live wild animal captured by any person and which is too young, too injured, or too ill to reasonably be expected to survive if left uncared for and which cannot lawfully be killed under this chapter or any Commissioner's Order issued hereunder, shall be deemed to be under the protection of the Band and shall be reported by the finder within 24 hours of capture to the Commissioner of Natural Resources. The Commissioner shall determine the proper disposition of the animal which may include but is not limited to placement with the finder, placement with another individual or agency, return to the wild, or killing.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 13.

**Cross References**

Possession of live migratory game birds, see 11 MLBS § 2274.

**§ 2007. Taking for Religious or Ceremonial Purposes.**

Any Band member may apply for a permit, on forms prescribed by the Commissioner of Natural Resources, to take for religious or ceremonial purposes any plant or animal which it would be otherwise unlawful to take under this chapter or any Commissioner's Order issued hereunder. A permit for such taking, specifying the name and other identifying information of the permittee, the species to be taken, the sex of any animal to be taken, the locality where the taking is permitted, the dates upon which the taking is permitted, and other information deemed pertinent by the Commissioner of Natural Resources, may be issued by the Commissioner upon receipt of a completed application form and approval of the Elderly Advisory Board, the Chief Executive of the Band, and the Commissioner. No such permits may be granted if the Elderly Advisory Board determines that no bona fide religious or ceremonial purpose would be served by the taking, if the Chief Executive determines that the general interests of the tribe would be injured by the taking, or if the Commissioner determines that conservation interests would be injured by the taking.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 15.

**Cross References**

Endangered species, use for religious purposes, *see* Nat. Res. Comm. Order 84-88.

**§ 2008. Medicinal Plants.**

Individual members may take naturally occurring plants for medicinal purposes without a permit.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 15.01.

**SUBCHAPTER 2**

**FISHING**

**Section**

- 2101. Band License.**
- 2102. Non-Band License.**
- 2103. Non-Indian License.**
- 2104. License Fees.**
- 2105. Minnesota Licenses.**
- 2106. Constructive Knowledge.**
- 2107. Specific Regulations-Fishing for Personal Use.**
- 2108. Seasons.**
- 2109. Closure.**
- 2110. Rare and Endangered Species.**
- 2111. Spearing and Netting Permits.**
- 2112. Minors.**
- 2113. Transportation.**
- 2114. Commercial Fishing.**
- 2115. Specific Regulations-Commercial Fishing.**

**Cross References**

Taking fish by angling off of tribal lands, *see* Nat. Res. Comm. Order 171-93.

**§ 2101. Band License.**

Every enrollee of the Mille Lacs Band of Chippewa Indians who takes fish within the Mille Lacs Reservation shall have in his or her possession a proper Band fishing license. This license must be in his or her possession whenever taking, possessing or transporting fish within the Reservation and whenever possessing or transporting fish anywhere within the United States, which fish were lawfully taken within the Reservation.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.

**§ 2102. Non-Band License.**

If the Commissioner of Natural Resources determines that it is in the best interest of the Mille Lacs Band of Chippewa Indians, it may issue a non-Band fishing license to any enrolled member of a federally recognized Indian tribe who is not enrolled with the Band. Such a permit must be in the possession of any such person who takes fish within the Mille Lacs Reservation or who transports or possesses fish lawfully taken on the Reservation any place within the United States.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.01.

### **§ 2103. Non-Indian License.**

If the Commissioner of Natural Resources determines that it is in the best interest of the Mille Lacs Band of Chippewa Indians, it may issue non-Indian fishing licenses in numbers determined by him to be suitable. The Commissioner may also, by Commissioner's Order, establish resident and non-resident classes of non-Indian licenses. Any license issued under this section must be in the possession of the person to whom issued when taking fish within the Mille Lacs Reservation or transporting or possessing fish lawfully taken on the Reservation any place within the United States.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.02.

### **§ 2104. License Fees.**

Fees may also be charged by the Commissioner of Natural Resources for the issuance of the permits and licenses required by this statute. The Commissioner of Natural Resources may in his discretion charge a greater fee for a non-Band fishing license than for a Band fishing license. The Commissioner may also in his discretion charge a greater fee for a non-Indian fishing license than for a Band fishing license and may charge different fees and establish different conditions and different numbers of resident and nonresident classes of non-Indian licenses.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.03.

### **§ 2105. Minnesota Licenses.**

No Indian shall be required to purchase or possess a Minnesota fishing license when fishing within the Mille Lacs Reservation or when possessing or transporting fish, lawfully taken within the Reservation, anywhere within the United States.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.04.

### **§ 2106. Constructive Knowledge.**

All rules and regulations relating to the taking, possession or transportation of fish shall be as adopted in this chapter subject to amendment on an annual basis by the Commissioner of Natural Resources and all persons accepting Band, non-Band or non-Indian licenses shall be deemed to know of any such modifications, whether or not the licensee has actual knowledge.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.05.

#### **§ 2107. Specific Regulations-Fishing for Personal Use.**

The following regulations are hereby imposed on the taking for personal use of game and non-game fish:

- (a) No fish may be taken by means of explosives, drugs, poisons, lime, medicated bait or other deleterious substances.
- (b) There shall be no taking of game fish for any purpose by use of gill nets except where such taking is for personal use.
- (c) Game fish season shall be closed between March 31 and the closest Saturday to May 15. No gill nets shall be used during this period for the taking of any fish.
- (d) There shall be no netting in rivers or streams or within 500 feet of the mouth of rivers and streams between March 31 and June 15 of each year. There shall also be no netting in areas duly closed by the Commissioner of Natural Resources.
- (e) Nets for personal use shall be limited to 100 feet in length per license.
- (f) Muskellunge shall not be taken with a spear.
- (g) Fish houses must be conspicuously marked with the licensee's name and license number.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.06.

#### **§ 2108. Seasons.**

Seasons for the taking of the various game species of fish may be shortened by the Commissioner of Natural Resources.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.07.

### **§ 2109. Closure.**

The Commissioner of Natural Resources may in his discretion close specified lakes or spawning areas to all fishing if he determines that further fishing in such lakes or spawning areas will harm the resource, or may close such lakes or spawning areas to fishing for specified species of fish when he determines that such species will be endangered by further taking.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.08.

### **§ 2110. Rare and Endangered Species.**

There shall be no taking of any species of fish determined by the Commissioner of Natural Resources to be rare or endangered.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.09.

### **Cross References**

Endangered and threatened species, *see* Nat. Res. Comm. Order 37-86.

### **§ 2111. Spearing and Netting Permits.**

It shall be illegal for any person under the jurisdiction of the Band to participate in fishing, spearing or netting activities at any time without a valid Band permit. It shall be a civil offense for any person, of any age, to participate in any fishing, spearing, or netting activities without a valid Band permit.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.10.

### **§ 2112. Minors.**

It shall be illegal for any adult under the jurisdiction of the Band over the chronological age of eighteen (18) to engage any person of a lesser chronological age in any fishing, netting, or spearing activity when said minor does not personally possess a valid permit.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.11.

#### **§ 2113. Transportation.**

(a) It shall be illegal for any person under the jurisdiction of the Non-Removable Mille Lacs Band of Chippewa Indians to transport without just cause, by any means, any game fish taken, by any means for the purpose of personal financial gain.

(b) Just cause shall mean a cause outside legal or cultural cause which must be based on reasonable grounds, and these must be a fair and honest cause or reason, regulated by good faith.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 5.12.

#### **§ 2114. Commercial Fishing.**

Fish may not be taken for commercial purposes within the Reservation, provided, that upon proper application the Commissioner of Natural Resources may in his discretion issue a commercial fishing permit for non-game fish species to Band members upon determination that a limited amount of commercial fishing will not harm the resource. The Commissioner of Natural Resources shall strictly regulate the manner of fishing, the type of fish taken, and the amount of the take under such a permit.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 6.

#### **§ 2115. Specific Regulations-Commercial Fishing.**

All persons operating under a commercial fishing permit as provided by 11 MLBS § 2114 shall be subject to the following regulations regarding transportation of fish:

- (a) A person operating under a commercial fishing permit shall have in his possession at all times both the commercial fishing permit and his Band fishing license.

- (b) All nets used for taking fish must be identified as Indian nets.
- (c) Each permittee may use no more than 600 feet of net for commercial purposes.
- (d) Any person holding a personal netting license in addition to a commercial permit shall be limited to using a total of 600 feet for all purposes.
- (e) All non-game fish taken under the valid commercial fishing permit may be possessed in quantities prescribed in such license and bought, sold, or transported during any season designated by the Commissioner of Natural Resources. Such fish may be frozen or cured during open season, and when so cured or frozen may be transported, bought, or sold at any time.
- (f) All live game fish taken incidentally in a commercial fishing operation shall be released immediately to the waters from which taken. All dead or injured game fish may be retained for personal use.
- (g) When shipping non-game fish taken under a Band fishing license and commercial fishing permit, the parcel must be plainly marked on the outside stating the name, address, and license number of the shipper and the kind and number of such fish contained in the package. The waybill or receipt issued by any common carrier to a shipper shall specify the pounds and species of such fish so shipped.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 6.01.

**SUBCHAPTER 3**

**HUNTING AND TRAPPING**

**Part**

**A. General Provisions**

**B. Migratory Birds**

**Section**

**2201**

**2261**

**PART A**

**GENERAL PROVISIONS**

**Section**

**2201. Band License.**

**2202. Non-Band License.**

**2203. Non-Indian License.**

- 2204. License Fees.
- 2205. Minnesota Licenses.
- 2206. Constructive Knowledge.
- 2207. License Required.
- 2208. Rare and Endangered Species.
- 2209. Small Game Season.
- 2210. Specified Small Game Bag and Possession Limits.
- 2211. Big Game Bag Limits.
- 2212. Season for Does.
- 2213. Season for Bucks.
- 2214. Deer Tags.
- 2215. Elk and Moose.
- 2216. Season for Furbearers.
- 2217. Furbearer Tags.
- 2218. Shipment of Furs.
- 2219. Personal Use of Hides or Pelts.
- 2220. Commercial Hunting and Trapping.
- 2221. Motor Vehicles.
- 2222. Night Hunting; Shining.
- 2223. Populated Areas.
- 2224. Firing Down or Across Roads.
- 2225. Permit Required.
- 2226. Minors.
- 2227. Possession of Untagged Big Game.
- 2228. Hunting and Trapping Seasons.

**§ 2201. Band License.**

Every enrollee of the Mille Lacs Band of Chippewa Indians who hunts or traps within the Mille Lacs Reservation must have in his or her possession a proper Band hunting license. This license must be in his or her possession at all times when carrying firearms within the Reservation, shooting, trapping or taking within the Reservation any small game, big game or fur bearing animals, or when possessing or transporting any place in the United States any small game, big game or fur bearing animal lawfully taken within the Reservation.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.

**§ 2202. Non-Band License.**

If the Commissioner of Natural Resources determines that it is in the best interests of the Mille Lacs Band of Chippewa Indians, he may issue a non-Band hunting license to any Indian enrolled in a federally recognized Tribe who is not enrolled with the Mille Lacs Band. Such license must

be in the possession of any such person who carries firearms on the Reservation or who shoots, traps or takes within the Reservation any small game, big game or fur bearing animal or who possesses or transports any place in the United States any small game, big game or fur bearing animal lawfully taken within the Reservation.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.01.

#### **§ 2203. Non-Indian License.**

If the Commissioner of Natural Resources determines that it is in the best interests of the Mille Lacs Band of Chippewa Indians, he may issue non-Indian hunting licenses in numbers determined by him to be suitable. The Commissioner may also, by Commissioner's Order, establish resident and nonresident classes of non-Indian license. Any license issued under this section must be in the possession of the person to whom issued when carrying firearms on the Reservation or when shooting, trapping, or taking within the Reservation any small game, big game or fur bearing animal or when possessing or transporting any place in the United States any small game, big game or fur bearing animal lawfully taken within the Reservation.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.02.

#### **§ 2204. License Fees.**

Fees may be charged in the discretion of the Commissioner of Natural Resources for the issuance of licenses required under 11 MLBS §§ 2201 and 2202. The Commissioner of Natural Resources may charge a higher fee for the issuance of a non-Band license than for a Band hunting license. The Commissioner may also in his discretion charge a greater fee for a non-Indian hunting license than for a Band hunting license and may charge different fees and establish different conditions and different numbers of resident and nonresident classes of non-Indian licenses.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.03.

#### **§ 2205. Minnesota Licenses.**

No Indian shall be required to purchase or possess a Minnesota big game, small game or trapping license when engaged in hunting or trapping of game within the Mille Lacs Reservation or when possessing or transporting game, lawfully taken, anywhere within the United States.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.04

### **§ 2206. Constructive Knowledge.**

All regulations regarding the taking, possessing or transportation of small game, big game and fur bearing animals adopted in this statute are subject to amendment on an annual basis by the Commissioner of Natural Resources and all persons accepting Band, non-Band or non-Indian licenses shall be deemed to know of any such modifications, whether or not the licensee has actual knowledge.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.05.

### **§ 2207. License Required.**

Possession of a valid Band hunting license or non-Band hunting license shall be required for the taking, possession or transportation of all big game, small game and fur bearing animals.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.06.

### **§ 2208. Rare and Endangered Species.**

There shall be no taking, possession or transportation whatsoever of bald eagle, elk, golden eagle, timber wolf or any species determined by the Commissioner of Natural Resources to be rare or endangered.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.07.

### **Cross References**

Endangered and threatened species, *see* Nat. Res. Comm. Order 37-86.

**§ 2209. Small Game Season.**

The small game season shall be September 1 to and including March 1. There shall be no limitation as to the season, number or manner of taking of rabbit or squirrel.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.08.

**§ 2210. Specified Small Game Bag and Possession Limits.**

The taking of ruffed grouse, sharp-tailed grouse and spruce hen shall be limited to six (6) per day per person, and the possession and transportation of these types of small game shall be limited to twelve (12) at any given time.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 7.09.

**§ 2211. Big Game Bag Limits.**

The taking of deer and bear shall be limited to one (1) each per season, provided that a special license may be issued permitting the taking of one (1) additional deer upon a showing that a greater need for sustenance exists.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.

**§ 2212. Season for Does.**

The season for does shall be within the period of September 1 to January 31, inclusive.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.01.

**§ 2213. Season for Bucks.**

The season for bucks shall be July 1 to January 31, inclusive.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.02.

### **§ 2214. Deer Tags.**

Each licensee will be furnished with a locking seal which shall be affixed to the deer between the tendon and bone and around the bone of the leg so that such seal cannot be removed without breaking the lock.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.03.

### **§ 2215. Elk and Moose.**

The taking of elk and moose shall not be permitted; however, the Commissioner of Natural Resources may authorize a moose or elk season.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.04.

### **§ 2216. Season for Furbearers.**

The season for the trapping and taking of fur bearing animals shall be October 1 to and including April 30, except the taking of fox, wolves, marten and fisher, which seasons shall be determined annually by the Commissioner of Natural Resources.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.05.

### **§ 2217. Furbearer Tags.**

All fur bearing animals taken pursuant to these regulations and all traps used pursuant to these regulations shall bear the number of the licensee's Band or non-Band hunting license.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.06.

**§ 2218. Shipment of Furs.**

When shipping furs taken under a Band or non-Band hunting license, the parcel must be plainly marked on the outside stating the name, address and license number of the shipper and kind and number of skins contained in the package. The waybill or receipt issued by any common carrier to a shipper shall specify the number and species of furs so shipped.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.07.

**§ 2219. Personal Use of Hides or Pelts.**

Hides or pelts adapted to personal use need not carry the license number of the taker once the adaption is completed.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 8.08.

**§ 2220. Commercial Hunting and Trapping.**

There shall be no commercial taking of big game, small game or fur bearing animals with the following exceptions, for which no special commercial license is needed other than the Band or non-Band hunting license:

- (a) **Taking.** The skins of all fur bearing animals may be taken commercially according to the regulations of 11 MLBS §§ 2216 to 2219.
- (b) **Deer.** The hides of deer may be possessed and transported for commercial purposes and when transported or shipped the taker must comply with the regulations set forth in 11 MLBS § 2218 if otherwise lawfully taken.
- (c) **Beaver, muskrat, rabbit, raccoon.** Beaver, muskrat, rabbit and raccoon may be taken for commercial purposes, and when the flesh of these animals is transported or shipped, the taker must comply with the regulations set forth in 11 MLBS § 2209.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50. § 9.

**§ 2221. Motor Vehicles.**

There shall be no taking of any animal from moving motor vehicles, including snowmobiles.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50. § 10(a).

**§ 2222. Night Hunting; Shining.**

- (a) It shall be illegal for any person under the jurisdiction of the Band to hunt, possess or transport any big or small game, with the exception of raccoon, that is taken at night and with or without the aid of artificial light for the purpose of hunting without just cause. Artificial light shall mean all types of light which is not generated by nature. The hunting technique commonly known as poaching with an artificial light shall be illegal for purposes of this section.
- (b) There shall be no taking of big game or small game, except raccoon, with the use of artificial lights.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, §§ 10(b), 10.03.

**§ 2223. Populated Areas.**

There shall be no hunting within 500 feet of any public campground during the season within which it is open for public use, or within 500 feet of any occupied dwelling.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 10(c).

**§ 2224. Firing Down or Across Roads.**

There shall be no firing down or across any public road.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 10(d.)

**§ 2225. Permit Required.**

It shall be illegal for any person under the jurisdiction of the Band to participate in any hunting activity on trust property under the jurisdiction of the Band without a valid hunting permit. It shall be a civil offense for any person, of any age, to participate in any hunting activity without a valid permit.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 10.01.

**§ 2226. Minors.**

It shall be illegal for any adult under the jurisdiction of the Band, over the chronological age of eighteen (18) to engage any person of a lesser chronological age in any hunting activity when said minor does not personally possess a valid hunting permit.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 10.02.

**§ 2227. Possession of Untagged Big Game.**

It shall be illegal for any person to possess any big game which is not tagged with the official hunting tag of the Band, any other federally recognized Band or Tribe on any trust property under the jurisdiction of the Band.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 10.04.

**§ 2228. Hunting and Trapping Seasons.**

The Commissioner of Natural Resources, may shorten or lengthen the seasons provided by these regulations, may impose restrictions were none are set forth, or may close and prohibit trapping or hunting of specified species of small game, big game, or fur bearing animals, when he determines that such acts are in the best interests of the resource. The Commissioner of Natural

Resources may also impose such other restrictions on manner of taking and bag limits as he deems necessary for preservation of the resource.

### Historical and Statutory Notes

**Source:**

Band Statute 1162-MLC-50, § 12.

## PART B

### MIGRATORY BIRDS

**Section**

- 2261. Taking, Possession, Transport and Export.**
- 2262. Methods.**
- 2263. Closed Season.**
- 2264. Shooting Hours.**
- 2265. Daily Limit.**
- 2266. Wanton Waste of Migratory Game Birds.**
- 2267. Possession Prohibited If Unlawfully Taken.**
- 2268. Possession During Closed Season.**
- 2269. Possession Limit.**
- 2270. Opening Day of Season.**
- 2271. Field Possession Limit.**
- 2272. Tagging Requirement.**
- 2273. Custody of Birds of Another.**
- 2274. Possession of Live Birds.**
- 2275. Termination of Possession.**
- 2276. Gift of Migratory Game Birds.**
- 2277. Transportation Prohibited If Unlawfully Taken.**
- 2278. Transportation of Birds of Another.**
- 2279. Species Identification Requirement-Transportation.**
- 2280. Marking Package or Container-Transportation.**
- 2281. Exportation Prohibited If Unlawfully Taken.**
- 2282. Species Identification Requirement.**
- 2283. Marking Package or Container-Exportation.**
- 2284. Migratory Bird Preservation Facility.**
- 2285. Annual Rules.**

### Cross References

Memorandum of understanding with US Fish and Wildlife Service on taking of migratory birds *see* Nat. Res. Comm. Orders 132-90, 152-92, 173-93.

Off-reservation migratory bird hunting, memorandum agreement with US Fish and Wildlife Service, *see* Nat. Res. Comm. Order 144-90.

### **§ 2261. Taking, Possession, Transport and Export.**

Migratory birds may be taken, possessed, transported, and exported only as provided by this chapter and Commissioner's Orders issued hereunto. Migratory birds has the meaning given to it at 11 MLBS § 2001(m).

#### **Historical and Statutory Notes**

##### **Source:**

Band Statute 1162-MLC-50, § 11.

### **§ 2262. Methods.**

Migratory birds on which open seasons are prescribed may be taken by any method except those prohibited in this section. No person shall take migratory game birds:

- (a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance.
- (b) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water.
- (c) From or by any means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance.
- (d) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased. Provided that a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power.
- (e) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this subsection for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl.
- (f) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds.

- (g) By the aid of baiting or on or over any baited area. As used in this subsection, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited areas" means any area where shelled, shucked, or unshucked, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this subsection shall prohibit:
- (1) The taking of all migratory birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as a result of normal agricultural planting or harvesting; and
  - (2) The taking of all migratory birds, except waterfowl, on or over land 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 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.
- (h) As limited to the taking of ducks, geese, swans, and coots, (*Fulica americana*), while possessing shotshells loaded with shot other than steel shot or such shot approved as nontoxic by the Commissioner of Natural Resources, in any area declared a non-toxic shot zone by the Commissioner of Natural Resources.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.01.

#### **Cross References**

Steel shot required, *see* Nat. Res. Comm. Order 31-85.

#### **§ 2263. Closed Season.**

No person shall take migratory birds during the closed season.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.02.

**§ 2264. Shooting Hours.**

No person shall take migratory game birds except during the hours open to shooting as prescribed by annual regulations promulgated by the Commissioner of Natural Resources pursuant to 11 MLBS § 2285.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.03.

**§ 2265. Daily Limit.**

No person shall take in any one (1) calendar day, more than the daily bag limit or negotiate annually aggregate daily bag limit, whichever applies.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.04.

**§ 2266. Wanton Waste of Migratory Game Birds.**

No person shall kill or cripple any migratory game bird pursuant to this part without making a reasonable effort to retrieve the bird and retain it in his actual custody at the place where taken or between that place and either:

- (a) his automobile or principal means of land transportation;
- (b) his personal abode or temporary or transient place of lodging;
- (c) a migratory bird preservation facility as defined by 11 MLBS § 2284;
- (d) a post office; or
- (e) a common carrier facility.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.05.

**§ 2267. Possession Prohibited If Unlawfully Taken.**

No person shall at any time, by any means, or in any manner possessor have in custody any migratory game bird or part thereof taken in violation of any provision of 11 MLBS §§ 2262 to 2266 or in violation of any Commissioner's Order issued under 11 MLBS § 2285.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.06.

**§ 2268. Possession During Closed Season.**

No person shall possess any freshly killed migratory game birds during the closed season.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.061.

**§ 2269. Possession Limit.**

No person shall possess more migratory game birds taken in the United States than the possession limit or the aggregate possession limit, whichever applies.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.062.

**§ 2270. Opening Day of Season**

No person on the opening day of the season shall possess any freshly killed migratory game birds in excess of the daily bag limit or aggregate bag limit, whichever applies.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.063.

**§ 2271. Field Possession Limit.**

No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place where taken and either:

- (a) his automobile or principal means of transportation;
- (b) his personal abode or temporary or transient place of lodging;
- (c) a migratory bird preservation facility as defined by 11 MLBS § 2284;
- (d) a post office; or
- (e) a common carrier facility.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.064.

**§ 2272. Tagging Requirement.**

No person shall put or leave any migratory game birds at any place (other than at his personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds have a tag attached signed by the hunter stating his address, the total number and species of birds, and the date such birds were killed. Migratory game birds being transported in any vehicle as the personal baggage of the processor shall not be considered as being in storage or temporary storage.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.065.

**§ 2273. Custody of Birds of Another.**

No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by 11 MLBS § 2272.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.066.

**§ 2274. Possession of Live Birds.**

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit. No person shall at any time or by

any means possess or transport live migratory game birds taken under authority of this Part, except as provided by 11 MLBS § 2006.

#### **Historical and Statutory Notes**

**Source:** Band Statute 1162-MLC-50, § 11.067.

#### **§ 2275. Termination of Possession.**

Subject to all other requirements of this Part, the possession of birds taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a migratory bird preservation facility as defined by 11 MLBS § 2284 and consigned for transport by the Postal Service or a common carrier to some person other than the hunter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.068.

#### **§ 2276. Gift of Migratory Game Birds.**

No person may receive, possess, or give to another any freshly killed migratory game birds as a gift, except at the personal abode of the donor or donee, unless such birds have a tag attached signed by the hunter who took the birds stating such hunter's address, the total number and species of birds, and the date such birds were taken.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.07.

#### **§ 2277. Transportation Prohibited If Unlawfully Taken.**

No person shall at any time, by any means, or in any manner transport any migratory game bird or part thereof taken in violation of any provision of 11 MLBS §§ 2262 to 2266, or in violation of any Commissioner's Order issued under 11 MLBS § 2285.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.071.

#### **§ 2278. Transportation of Birds of Another.**

No person shall transport migratory game birds belonging to another person unless such birds are tagged as required by 11 MLBS § 2272.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.072.

#### **§ 2279. Species Identification Requirement-Transportation.**

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (*Columba fasciata*), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50 § 11.073.

#### **§ 2280. Marking Package or Container-Transportation.**

No person shall transport by the Postal Service or a common carrier migratory game 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

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.074.

#### **§ 2281. Exportation Prohibited If Unlawfully Taken.**

No person shall at any time, by any means, or in any manner export or cause to be exported any migratory game bird or part thereof taken in violation of any provision of 11 MLBS §§ 2262 to 2266, or in violation of any Commissioner's Order issued under 11 MLBS § 2285.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.08.

**§ 2282. Species Identification Requirement.**

No person shall export migratory game birds unless one fully feathered wing remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.081.

**§ 2283. Marking Package or Container-Exportation.**

No person shall export migratory game 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 number of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.082.

**§ 2284. Migratory Bird Preservation Facility.**

"Migratory Bird Preservation Facility" means:

- (a) Any person who, at his residence or place of business and for hire or other consideration;
- (b) Any taxidermist, cold-storage facility or locker plant which for hire or other consideration; or
- (c) Any hunting club which, in the normal course of operations, receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storing, or shipping.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.09.

**§ 2285. Annual Rules.**

The Commissioner of Natural Resources is delegated the authority to promulgate annual rules pertaining to seasons, bag limits, possession limits, and hunting hours for the on-reservation migratory bird season and the off-reservation migratory bird season in the territories defined by 2 MLBS § 107.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 11.10.

### **SUBCHAPTER 4**

#### **WILD RICE**

**Section**

- 2301. Band License.**
- 2302. Non-Band License.**
- 2303. Non-Indian License.**
- 2304. License Required.**
- 2305. License Fees.**
- 2306. Regulations.**
- 2307. Determination and Posting of Season.**
- 2308. Watercraft and Flails.**
- 2309. Poles.**
- 2310. Paddy Rice.**
- 2311. Constructive Knowledge.**

#### **Cross References**

Explosives, use to remove obstructions to water flow on wild rice beds, *see* Nat. Res. Comm. Order 56-87.

#### **§ 2301. Band License.**

Every enrollee of the Mille Lacs Band of Chippewa Indians who harvests wild rice within the Mille Lacs Reservation shall have in his or her possession a proper Band ricing license. This license must be in his or her possession whenever harvesting, possessing or transporting wild rice within the Reservation and whenever possessing or transporting wild rice anywhere within the United States, when such wild rice was lawfully harvested within the Reservation.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, §14.

### **§ 2302. Non-Band License.**

If the Commissioner of Natural Resources determines that it is in the best interests of the Mille Lacs Band of Chippewa Indians, he may issue a non-Band ricing license to any enrolled member of a federally recognized Tribe who is not enrolled with the Mille Lacs Reservation.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.01.

### **§ 2303. Non-Indian License.**

If the Commissioner of Natural Resources determines that it is in the best interests of the Mille Lacs Band of Chippewa Indians, he may issue non-Indian ricing license in numbers determined by him to be suitable. The Commissioner may also, by Commissioner's Order, establish resident or nonresident classes of non-Indian licenses. Any license issued under this section must be in the possession of the person to whom issued when gathering wild rice on the Mille Lacs Reservation.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.02.

### **2304. License Required.**

Every Indian who gathers wild rice within the Mille Lacs Reservation must have in his possession a proper ricing license.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.03.

### **§ 2305. License Fees.**

Fees may be charged in the discretion of the Commissioner of Natural Resources for the issuance of ricing licenses. The Commissioner of Natural Resources may in his discretion charge a greater fee for a non-Band ricing license than for a Band ricing license. The Commissioner may also charge a greater fee for a non-Indian ricing license than for a Band license and may charge different fees and establish different conditions and different numbers of resident and nonresident classes of non-Indian licenses.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.04.

**§ 2306. Regulations.**

All regulations regarding the gathering of wild rice shall be as adopted in this chapter, subject to amendment on an annual basis by the Commissioner of Natural Resources, and subject to the power of the Commissioner of Natural Resources, or his agents, to regulate opening and closing of particular beds.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.05.

**§ 2307. Determination and Posting of Season.**

The Commissioner of Natural Resources shall determine each year, and shall post notices announcing, the season for the harvest of wild rice that year and the length of time per day during which wild rice may be harvested.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.06.

**§ 2308. Watercraft and Flails.**

No watercraft may be used for the harvest of wild rice other than a boat, skiff or canoe propelled by hand, which boat, skiff or canoe may have a top width of not more than 36 inches and a length of not more than 18 feet, nor may any machine or device be used for the harvest of wild rice other than a flail not more than 30 inches in length, nor more than one (1) pound in weight, which flail must be held and operated by hand.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.07.

### **Cross References**

Watercraft, *see* 20 MLBS § 1.

**§ 2309. Poles.**

No pole may be used for propelling any watercraft utilized for the gathering of wild rice unless such pole is forked at the end, with each branch less than 12 inches in length.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.08.

**§ 2310. Paddy Rice.**

None of the provisions of this subchapter shall apply to the gathering of paddy rice.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.09.

**§ 2311. Constructive Knowledge.**

All rules and regulations relating to the harvest of wild rice shall be as adopted in this chapter, subject to amendment on an annual basis by the Commissioner of Natural Resources, and all persons accepting Band, non-Band, or non-Indian licenses shall be deemed to know of any such modifications, whether or not the licensee has actual knowledge.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 14.10.

**SUBCHAPTER 5**

**FIREWOOD HARVEST**

**Section**

- 2401. Definitions.**
- 2402. Permit Requirement.**
- 2403. Prohibited Acts.**
- 2404. Cutting or Maiming Wood.**
- 2405. Duties of Bureau of Indian Affairs.**
- 2406. Duties of Tribal Members.**
- 2407. Permits for Firewood Harvest.**

- 2408. Fees.
- 2409. Natural Resource Officer Powers; Confiscation.
- 2410. Failure to Comply with Directives.
- 2411. Unauthorized Removal of Wood.
- 2412. Jurisdiction.
- 2413. Penalties.

### Cross References

Forestry, policy, goals and standards, *see* 11 MLBS §§ 126, 127.

#### § 2401. Definitions.

The Band Assembly hereby defines the following terms as related to this chapter:

- (a) **Firewood Harvest Permit.** Shall mean a license issued by the Natural Resource Office or Clerk of Court which authorizes an enrolled member to cut trees and stumps in accordance with this chapter.
- (b) **Identified or Marked Trees.** Shall mean any and all trees marked for cutting with yellow paint.
- (c) **Live Trees.** Shall mean trees that are standing, bearing fruit or blossoms, or green leaves; whatever the tree species may be.
- (d) **Salvage Trees/Dead or Down Trees.** Shall mean any and all trees that are damaged or blown down.
- (e) **Slash/Tops.** Shall mean the branch extensions from a tree.

### Historical and Statutory Notes

**Source:**

Band Statute 1162-MLC-50, § 22.

#### § 2402. Permit Requirement.

Any enrolled member of the Minnesota Chippewa Tribe may harvest any species of tree provided he has a valid wood-cutting permit in his possession which designates the type of wood product to be cut and the legal cord amount authorized.

### Historical and Statutory Notes

**Source:**

Band Statute 1162-MLC-50, § 16.

### **§ 2403. Prohibited Acts.**

No enrolled member of the Minnesota Chippewa Tribe shall:

- (a) cut any unmarked species of wood product for firewood,
- (b) leave any stump that exceeds twelve inches in height from ground-base to top level of stump, unless provided for by permit,
- (c) leave tops which lie greater than four feet from the ground,
- (d) cut any species of wood for firewood purposes that is outside of the exterior boundaries of the permit's applicability,
- (e) leave any marked tree uncut and unfelled completely to the ground, or (f) be wasteful or misuse any species of wood or stumpage.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 16.01.

### **§ 2404. Cutting or Maiming Wood.**

No enrolled member of the Minnesota Chippewa Tribe shall cut, maim or do anything which hinders the normal natural development of any species of wood while engaged in firewood harvest activity on tribal or Band trust property.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 16.02.

### **§ 2405. Duties of Bureau of Indian Affairs.**

- (a) It shall be the jurisdiction of the Natural Resources section of the Minnesota Agency in consultation with the Band to designate any trust properties as eligible for harvestation. The Minnesota Agency shall be additionally responsible for identifying all species of trees for harvestation.
- (b) The Minnesota Agency of the Bureau of Indian Affairs shall recommend to the Band the amount of fees which may be charged by the Band for each cord of wood depending upon the species which is to be harvested.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 17.

#### **§ 2406. Duties of Tribal Members.**

- (a) Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest firewood shall not harvest or deface any unmarked or unidentified trees lest he be liable for payment of three times the value of each tree harvested or defaced.
- (b) Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest firewood shall be responsible for keeping all roads to the harvest site open and maintained in good condition.
- (c) Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest firewood shall be responsible for providing his own labor, equipment (suitable cutting tools include chainsaws, axes, and other hand tools), supplies, transportation, supervision and incidentals necessary to perform the work.
- (d) Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest firewood shall agree to indemnify and save and hold the Band harmless from any and all claims or causes of action relating to personal injury, death or damage to property arising from performance of the terms of the permit.
- (e) Each member of the Minnesota Chippewa Tribe who is issued a permit to harvest firewood shall possess salvage rights during the term of his permit on those lots he is permitted to harvest. All salvage felled trees shall be removed before each permit expires.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 18.

#### **§ 2407. Permits for Firewood Harvest.**

- (a) Any Natural Resource Officer or the Clerk of Court shall be authorized to issue to any enrolled member of the Minnesota Chippewa Tribe a permit to harvest firewood in accordance with the provisions of Band law.
- (b) Each permit issued shall expire thirty days from the date of issuance. Each tribal member shall be eligible to renew an expired permit for an additional fifteen days provided weather conditions hampered his attempts to harvest firewood.

- (c) All permits shall expire on the required delivery date stated upon any contractual agreement between the Band and the Bureau of Indian Affairs.
- (d) Each wood cutting permit issued to a member of the Minnesota Chippewa Tribe shall state what species of tree is authorized for cutting, whether live and/or dead trees are authorized for cutting, and the area of land where cutting shall be authorized.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 19.

**§ 2408. Fees.**

The Band Assembly hereby establishes the personal use fee for a firewood harvest permit as five dollars (\$5.00). A vendor permit fee of twenty-five dollars (\$25.00) shall be charged for firewood harvest. Additionally, a fee of five dollars (\$5.00) is hereby established for each cord of wood harvested under a vendor's permit.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 23.

**§ 2409. Natural Resource Officer Powers; Confiscation.**

The Natural Resource Officer of the Band shall be authorized to monitor for compliance all provisions of this subchapter. He shall be empowered to issue citations for violations of this subchapter and confiscate property of any enrolled member for failure to comply with any legal desist order of the Natural Resource Officer for violations of law. Any confiscated property shall be held by the Band until the Court of Central Jurisdiction has issued a legal decision on the matter.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 20.

**§ 2410. Failure to Comply with Directives.**

Any enrolled member who is issued a permit to harvest firewood who fails to comply with a legal directive of the Natural Resource Officer shall after legal hearing before the Court of Central Jurisdiction have his permit revoked and/or be levied a fine not to exceed five hundred dollars (\$500.00) and/or be banished from harvesting firewood for a period not to exceed two normal harvesting seasons.

### Historical and Statutory Notes

**Source:**

Band Statute 1162-MLC-50, § 20.01.

### § 2411. Unauthorized Removal of Wood.

Any person who removes any species of wood without a valid permit shall be liable for a fine of three times the value of the wood. Said wood is hereby established as eighty dollars (\$80.00) per cord.

### Historical and Statutory Notes

**Source:**

Band Statute 1162-MLC-50, § 24.

### § 2412. Jurisdiction.

The Court of Central Jurisdiction shall have jurisdiction over all legal matters involved with this subchapter.

### Historical and Statutory Notes

**Source:**

Band Statute 1162-MLC-50, § 21.

### Cross References

Natural Resource Protection Code, jurisdiction, *see* 11 MLBS § 2601.  
Subject-matter jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS § 111.

### § 2413. Penalties.

The Court of Central Jurisdiction shall be authorized to issue any or all of the following punitive measures for violation(s) of provisions of this subchapter: probation, revocation of permit, fines-not to exceed five hundred dollars (\$500.00), banishment from harvestation with any eligible trust property, and confiscation of woodcutting equipment to include chainsaws, axes and other hand tools and cutting supplies.

### Historical and Statutory Notes

**Source:**

Band Statute 1162-MLC-50, § 21.01.

## SUBCHAPTER 6

### FIRES

#### Section

- 2501. Starting Fires.
- 2502. Exemptions.
- 2503. Camp Fires.
- 2504. Permission to Start Fires.
- 2505. Failure to Perform Duty.
- 2506. Duty to Report Unauthorized Fire.

#### Cross References

Open fire and backfire regulations, *see* Nat. Res. Comm. Order 12-84.

#### § 2501. Starting Fires.

Except as provided in 11 MLBS § 2502, any person who shall, when the ground is not snow-covered, in any place where there are standing or growing native coniferous trees, or in areas of ground from which natural coniferous trees have been cut, or where there are slashings of such trees, or native brush, timber, slashing thereof, or excavated stumps, or where there is peat or peat roots excavated or growing, start or have any open fire without the written permission of the Commissioner of Natural Resources shall be subject to a forfeiture of \$20.00.

#### Historical and Statutory Notes

##### Source:

Band Statute 1162-MLC-50, § 25.

#### § 2502. Exemptions.

No permit is required for the following open fires:

- (a) A cooking, singeing, poaching, boiling sap, or warming fire contained in a fireplace, fire-ring, charcoal grill, portable gas or liquid fueled camp stove or other similar container or device designed for the purpose of cooking or heating, or if the area within a radius of five feet of the fire is reasonably clear of all combustible material.
- (b) The burning of grass, leaves, rubbish, garbage, branches, and similar combustible material in an approved incinerator. An approved incinerator shall be constructed of fire-resistant material, have a capacity of at least three bushels, be maintained with minimum burning capacity of at least two bushels, and have a cover which is closed when in use and openings in the top or sides of one-inch maximum diameter. No

combustible material shall be nearer than three feet to the burner or incinerator when in use.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 25.01.

#### **§ 2503. Camp Fires.**

Every person who when the ground is not covered with snow starts a fire in the vicinity of forest or prairie land shall exercise every reasonable precaution to prevent the fire from spreading and shall before lighting the same clear the ground of all branches, brushwood, dry leaves, and other combustible material within a radius of five feet from the fire, and keep the fire under immediate personal supervision and control at all times, and carefully extinguish the fire before quitting the place. Any person who fails to comply with any provision of this section shall be subject to a forfeiture not to exceed \$20.00.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 25.02.

#### **§ 2504. Permission to Start Fires.**

Permission to set fire to any grass, stubble, peat, brush, raking of leaves, rubbish, garbage, branches, slashing or woods for the purpose of cleanup, clearing and improving land or preventing other fires shall be given whenever the same may be safely burned upon such reasonable conditions and restrictions as the Commissioner of Natural Resources may prescribe to prevent same from spreading and getting beyond control. This permission shall be in the form of a written permit signed by the Commissioner or his designee, these permits to be on forms furnished by the Commissioner. Any person setting any fire or burning anything under such permit shall keep the permit in immediate possession while so engaged and produce and exhibit the permit to any conservation or law enforcement officer when requested to do so.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 25.03.

#### **§ 2505. Failure to Perform Duty.**

Every person who shall kindle a fire on or near forest, brush, or prairie land and leave it unquenched, or be a party thereto, or who shall set fire to brush, stumps, dry grass, field stubble, leaves, peat, rubbish, garbage, branches and slashings, or other material, and fail to extinguish

the same before it has endangered the property of another; every person who shall negligently or carelessly set on fire, or cause to be set on fire, any woods, prairie, or other combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof; every person who shall use other than incombustible wads for firearms, or carry a naked torch, firebrand, or exposed light in or near forest land, or who, upon any such land or in the vicinity thereof, or on or along any public, tribal, or private road, trail path, railroad right of way or roadbed, or other public, tribal or private way of any kind running over, along or in the vicinity of any such land, shall throw or drop any burning match, ashes of pipe, lighted cigar, or cigarette, or any other burning substance, and who fails to extinguish the same immediately; every person who drives upon or over forest lands in a motor vehicle with an open cutout or without a muffler on the exhaust pipe; and every person who operates a tractor, chainsaw, steam or internal combustion engine in forested areas not equipped to prevent fires, shall be subject to a forfeiture not to exceed \$5,000.00.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 25.04.

#### **§ 2506. Duty to Report Unauthorized Fire.**

The occupant of any premises upon which any unauthorized fire is burning in the vicinity of forest lands, whether the fire was started by the occupant or otherwise, shall promptly report the fire to the Commissioner of Natural Resources, or to the nearest tribal or state forest officer, fire warden, conservation officer or law enforcement officer. Failure to make this report shall be deemed a violation of 11 MLBS § 2505, and the occupant of the premises shall be deemed prima facie guilty of negligence if the unreported fire spreads from the premises to the damage, loss, or injury of the tribe or any person.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 25.01(c).

## **SUBCHAPTER 7**

## **ENFORCEMENT**

### **Section**

**2601. Jurisdiction.**

**2602. Citation.**

**2603. Service of Process and Arrest.**

**2604. Notice to Appear.**

**2605. Power of Natural Resource Officers.**

- 2606. Searches.**
- 2607. Inspection of Premises.**
- 2608. Seizure.**
- 2609. Resisting or Obstructing Natural Resource Officer.**
- 2610. Witnesses to Violation.**
- 2611. Anonymity of Persons Reporting Violations.**
- 2612. Penalties.**
- 2613. Trespass.**
- 2614. Implied Consent to Seizure and Confiscation.**
- 2615. Use of Motor Vehicles and Other Equipment to Commit Violations Prohibited.**
- 2616. Possession of Animals or Wild Rice Taken in Violation of This Chapter.**
- 2617. Adoption of 18 U.S.C. Sections 1160, 1164, and 1165.**
- 2618. Property Damaged in Committing Offense.**
- 2619. Destroying Boundary and Warning Signs.**
- 2620. Hunting, Trapping or Fishing on Indian Lands.**
- 2621. Institution of Civil Forfeiture Proceedings.**
- 2622. Forfeitures.**

#### **Cross References**

Juvenile delinquency, violations heard in Criminal Division, *see* 24 MLBS § 4305.  
 Motor vehicles, police powers, *see* 19 MLBS § 501.  
 Warrant, summons and arrest, *see* 24 MLBS § 4101.

#### **§ 2601. Jurisdiction.**

The Court of Central Jurisdiction shall have jurisdiction of all matters arising under this chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.

#### **Cross References**

Firewood harvest, jurisdiction, *see* 11 MLBS § 2412.  
 Subject-matter jurisdiction, Court of Central Jurisdiction, *see* 5 MLBS § 111.

#### **§ 2602. Citation.**

Any officially recognized and sworn Natural Resource Officer of the Mille Lacs Band of Chippewa Indians shall issue a citation to each and every individual person, regardless of chronological age, who is observed in activities which are in civil violation or suspected civil violation of any section of this chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.02.

**§ 2603. Service of Process and Arrest.**

Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to execute and serve all warrants and processes issued by any justice of the Court of Central Jurisdiction under any law of the Non-Removable Mille Lacs Band of Chippewa Indians. Any Natural Resource Officer may arrest without a warrant any person under the jurisdiction of the Band detected in the actual violation of any provisions of Band law, and to take such person before the Court of Central Jurisdiction and make a proper complaint.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.03.

**§ 2604. Notice to Appear.**

When a person is arrested for any violation of law which is punishable as a civil misdemeanor and is not taken into custody and immediately taken before the Court, the arresting officer shall prepare, in quadruplicate, written notice to appear before the Court. This notice has the effect of, and serves as, a summons and complaint. Said notice shall conform with applicable provisions of the United States Code of Federal Regulations, United States Department of Interior, Title 25-Indians. In order to secure release, without being taken into custody and immediately taken before the Court, the arrested person must give his written promise so to appear before the Court by signing, in quadruplicate, a written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy thereof marked "summons to the person arrested. Thereupon the officer shall release the person from custody. If the person so summoned fails to appear on the return day, the Court shall issue a warrant for his arrest, and upon his arrest proceedings shall be had as in any other case.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.04.

**§ 2605. Power of Natural Resource Officers.**

Any duly sworn Natural Resource Officer is hereby authorized and empowered to enter upon any trust land within the jurisdiction of the Band for the purpose of carrying out the duties and functions of his office, or to make investigations of any violation of the Band's game and fish

laws, and in aid thereof to take affidavits upon oath administered by him, and to cause proceedings to be instituted if proofs at hand warrant it.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.05.

#### **§ 2606. Searches.**

Any sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to enter and inspect any commercial building located on trust property of the Band for the purpose of determining whether wild animals are kept or stored therein in violation of this chapter. He shall have power to inspect and examine the books and records of all persons, or businesses, or corporations which he has reason to believe has violated the laws relating to game or fish. He shall have power to enter and examine all camps, vessels, boats, wagons, automobiles, airplanes, or other vehicles, cars, stages, tents, suitcases, valises, packages, crates, boxes, and other receptacles and places where he has reason to believe wild animals unlawfully taken or possessed are to be found.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.06.

#### **Cross References**

Unreasonable search and seizure, *see* 1 MLBS § 2.

#### **§ 2607. Inspection of Premises.**

Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to enter and inspect at all reasonable times the premises whereon is being conducted any business or activity requiring a license under this chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.07.

#### **Cross References**

Unreasonable search or seizure, *see* 1 MLBS § 2.

**§ 2608. Seizure.**

Any duly sworn Natural Resource Officer of the Non-Removable Mille Lacs Band of Chippewa Indians is hereby authorized and empowered to seize and confiscate in the name of the Band, any wild animals or wild rice taken, bought, sold, transported, or possessed in violation of this conservation code and to seize and confiscate in the name of the Band any and all equipment used by any person in the unlawful taking or transporting of said wild animals or wild rice and any evidence of any violation of any provision of this Chapter or of Commissioner's Order issued thereunder. Anything seized or confiscated shall be held by the Band until proper determination of the case by the Court of Central Jurisdiction is finalized.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, §§ 4.08, 30.

**Cross References**

Unreasonable search or seizure, *see* 1 MLBS § 2.

**§ 2609. Resisting or Obstructing Natural Resource Officer.**

It shall be illegal for any person under the jurisdiction of the Band to willfully hinder, resist, or obstruct a duly sworn Natural Resource Officer in the performance of his official duty, or refuse to submit anything called for by him for his inspection.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50 § 4.09.

**§ 2610. Witnesses to Violation.**

Any person who is aware of or witnesses a violation of this chapter, or of any rule established by the Commissioner of Natural Resources regarding season limit, bag limit or restriction on method or manner of taking game, fish or wild rice, may report such infraction to the Commissioner of Natural Resources, the Natural Resource Officer or the Court of Central Jurisdiction.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.10.

**§ 2611. Anonymity of Persons Reporting Violations.**

Any person under the jurisdiction of the Band who reports a violation of this chapter may do so anonymously. No person who reports a violation in person shall be compelled to appear in the Court of Central Jurisdiction as a witness. No justice of the Court of Central Jurisdiction shall compel any officer of the Band to reveal the name of said person as a matter of court record.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.11.

#### **§ 2612. Penalties.**

Any person who violates any provision of 11 MLBS §§ 2101 to 2310 shall be subject to a forfeiture not to exceed \$5,000.00, and a revocation of any license or permit held under this chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.01.

#### **§ 2613. Trespass.**

Any person who is not eligible for a Band fishing, hunting, or ricing license, and who enters upon the trust properties of the Mille Lacs Band, of its enrolled members, or of the Minnesota Chippewa Tribe delegated to the Mille Lacs Band of Chippewa Indians, for the purpose of fishing, hunting, or gathering wild rice, shall be deemed in trespass and subject to a forfeiture not to exceed \$1,000.00. It shall be a defense to any action brought under this section that the person charged with its violation had at the time and in his possession a license validly issued under this chapter, authorizing the activity in which he was engaged.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 4.50.

#### **§ 2614. Implied Consent to Seizure and Confiscation.**

Any person not eligible for a Band fishing, hunting, or ricing license, and who enters upon the trust properties of the Mille Lacs Band, its enrolled members, or the Minnesota Chippewa Tribe delegated to the Mille Lacs Band of Chippewa Indians, for the purposes of fishing, hunting, or gathering wild rice, thereby impliedly gives consent to the seizure and forfeiture of any property used in the in the commission of any violation of this chapter or of any Commissioner's Order issued thereunder and of any wild animals or wild rice taken or possessed in violation of this

chapter or any Commissioner's Order issued thereunder, and such property, wild animals, or wild rice may be seized as provided in 11 MLBS § 2608. Such consent may be withdrawn but only after any property, wild animals or wild rice subject to seizure and forfeiture has been inventoried by a Natural Resource officer of the Band.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 26.

#### **§ 2615. Use of Motor Vehicles and Other Equipment to Commit Violations Prohibited.**

- (a) The use of any vehicle, as defined by 19 MLBS § 2; any firearm, as defined by 11 MLBS § 2001; any boat, including motor, oars, paddles, and sails; any bow; arrow; spear; net; fishing rod; fishing tackle; trap; or snare to violate or to facilitate the violation of any provision of this chapter or any Commissioner's Order issued thereunder is a violation subject to a forfeiture of \$300.00.
- (b) An element of the Band's proof upon the trial of any violation of this section shall be the production of the equipment allegedly used in the violation.
- (c) Any evidence seized pursuant to section may be released to the defendant prior to trial upon a showing of hardship to the defendant's posting of bond or other security will be forfeited upon failure of the defendant to appear or to produce the evidence.
- (d) Any bond or security posted by the defendant pursuant to subsection (c) of this section shall be returned to defendant after trial if defendant has produced the evidence, provided that the bond or security may be used to set off any other obligations then owing the Band by the defendant.

#### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 27.

#### **§ 2616. Possession of Animals or Wild Rice Taken in Violation of This Chapter.**

- (a) The possession of any animal or part thereof or wild rice taken in violation of any provision of this chapter or of any Commissioner's Order issued thereunder is a violation subject to a forfeiture of \$300.00.
- (b) An element of the Band's proof upon the trial of any violation of this section shall be the production of the animal or part thereof or wild rice allegedly taken in violation.

- (c) Any evidence seized pursuant to 11 MLBS § 2608 which is not held for forfeiture shall be released to the defendant upon dismissal of a complaint or citation under this section or a finding of no violation, except that any evidence seized may be used to set off any other obligations then owing the Band by the defendant.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 28.

**§ 2617. Adoption of 18 U.S.C. Sections 1160, 1164, and 1165.**

The provisions of 18 U.S.C. Sections 1160, 1164, and 1165 are adopted as Band Law. The rights expressly or impliedly granted therein are made enforceable in tribal court. Any duly sworn Natural Resource Officer of the Band may exercise enforcement powers, including the right to seize, in all cases of violation of such provisions. The appropriate Band legal officer shall subsequent to the citation of any person or the seizure of any item determine whether to refer the matter to federal authorities for prosecution, to commence proceedings under Band law, to do both or to decline all further proceedings.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 29.

**§ 2618. Property Damaged in Committing Offense.**

Whenever a white person, in the commission of an offense within the Indian country takes, injures or destroys the property of any friendly Indian the judgment shall include a provision that the defendant pay to the Indian owner a sum to twice the just value of the property so taken, injured, or destroyed.

**Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 29.01.

**§ 2619. Destroying Boundary and Warning Signs.**

Whoever willfully destroys, defaces, or removes any sign erected by a Mille Lacs Band, or a Government agency (a) to indicate the boundary of an Indian Reservation or of any Indian country as defined in section 1151 of title 18, United States Code or (b) to give notice that hunting, trapping, or fishing is not permitted thereon without lawful authority or permission, shall forfeit not more than \$250.00.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 29.02.

### **§ 2620. Hunting, Trapping or Fishing on Indian Lands.**

Whoever, without lawful authority or permission, willfully and knowingly goes upon any land that belongs to any Indian or Indian tribe, band, or group and either are held by the United States in trust or are subject to a restriction against alienation imposed by the United States, or upon any lands of the United States that are reserved for Indian use, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish shall forfeit not more than \$250 and all game, fish, and peltries in his possession shall be forfeited.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 29.03.

### **§ 2621. Institution of Civil Forfeiture Proceedings.**

The appropriate legal officer of the Mille Lacs Band of Chippewa Indians or any duly sworn Natural Resource Officer of the band is authorized to commence proceedings on any violation of any provision of this chapter or of any Commissioner's Order for which a civil forfeiture is prescribed by the issuance of either a citation or a summons and complaint. In either case the initiating papers shall inform the defendant of the section number and substance of the violation is alleged to have occurred, the maximum forfeiture which can be imposed for the violation, and the date, time, and place where he is commanded to answer. In any case where property, animals, or wild rice has been seized, a receipt therefore shall be given the defendant if practicable.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 31.

### **§ 2622. Forfeitures.**

In addition to any money forfeiture imposed by the Court of Central Jurisdiction for violation of any provision of this chapter or any Commissioner's Order issued thereunder, the Court may order forfeited any animal, animal part, or wild rice taken in the commission of such violation. Anything so forfeited shall be disposed of by the Court of Central Jurisdiction for the benefit of the Mille Lacs Band of Chippewa Indians.

### **Historical and Statutory Notes**

**Source:**

Band Statute 1162-MLC-50, § 32.

**CHAPTER 4**

**ANIMALS**

**Subchapter**

- 1. Dog Protection**
- 2. Animal Protection**

**Section**

- 3001**
- 3021**

**SUBCHAPTER 1**

**DOG PROTECTION**

**Section**

- 3001. Definitions.**
- 3002. Registration, Rabies Vaccination Requirement.**
- 3003. Dangerous Dogs.**
- 3004. Confiscation and Disposal of Dangerous Dogs and Other Dogs.**
- 3005. Fines.**
- 3006. Abandoned Dogs; Duty of Officers.**
- 3007. Dog Houses.**
- 3008. Civil Causes of Action.**
- 3009. Jurisdiction.**
- 3010. Sovereign Immunity.**
- 3011. Severability.**

**§ 3001. Definitions.**

The following terms are defined for the purpose of this subchapter:

- (a) **“Abandoned”** means when a dog does not have proper shelter from cold, hot, or inclement weather or not properly fed and watered, or provided with suitable food and water in circumstances that threaten the life of the animal, such as being dumped or dropped off.
- (b) **“Animal shelter”** means a facility, whether organized under the Band or a private entity, that houses, disposes of, and puts up for adoption abandoned, homeless, and lost animals.
- (c) **“Band”** means the Non-Removable Mille Lacs Band of Ojibwe.

- (d) **“Band Lands”** means lands owned by or held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band of Ojibwe Indians, or one or more members of the Mille Lacs Band of Ojibwe Indians, and subject to the jurisdiction of the Mille Lacs Band.
- (e) **“Bodily injury”** means injury to any person that involves physical pain and suffering, scarring or disfigurement, or bone fracture.
- (f) **“Designated animal welfare agency”** means a private entity, such as an animal shelter, rehabilitation center, or rescue center, which assists the Band in removing, rescuing, and finding care and a home for an animal, pet, or service dog.
- (g) **“Dog”** means any animal within the canine family, wild or domesticated.
- (h) **“Dangerous Dog”** means any dog that:
  - (1) has without provocation inflicted bodily injury on any person;
  - (2) has without provocation killed or seriously injured a domestic animal while outside the dog owner’s property line;
  - (3) has been determined to be “potentially dangerous” dog as defined in this Subchapter and, after the dog’s owner is given notice that the dog is “potentially dangerous,” bites, attacks or threatens the safety of humans or other domestic animals; or
  - (4) has a contagious or infectious disease that humans or other domestic animals may contract is exposed to that animal.
- (i) **“Dog Enclosure”** means any securely confined house or residence, or a securely enclosed and locked pen or structure suitable to prevent a dog from escaping so as to provide humans or other animals with protection from the dog.
- (j) **“Owner”** means any person(s) possessing, harboring, keeping, having an ownership interest in, or having custody or control of the dog.
- (k) **“Potentially Dangerous Dog”** means any dog that:
  - (1) is not registered with the Band’s Department of Public Safety; or
  - (2) is not tagged with a current Rabies tag showing vaccination against rabies; or
  - (3) when unprovoked, chases or approaches a person on any property in an aggressive manner; or

- (4) has a known propensity or disposition, as indicated by sworn statements from at least two adults, to attack or threaten the safety of humans or domestic animals; or
- (5) is running loose anywhere on Band lands.
- (l) **“Provocation”** means conduct or actions that tend to arouse rage, resentment or fury in another person or animal.
- (m) **“Tribal Enforcement Officer”** means a Band Department of Natural Resources conservation officer, Tribal Police Officer or designated employee within tribal law enforcement, or designated animal welfare agency.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3001.  
Band Ordinance 42-22.

**§ 3002. Registration, Rabies Vaccination Requirement.**

- (a) **Requirement.** All dogs present on Band Lands must be registered with Tribal Law Enforcement and be microchipped within fourteen (14) calendar days after such dog is first present on Band lands.
- (b) **Issuance of Certificate.** The Department of Public Safety shall issue a certificate of registration to the owner and maintain a copy of such certificate of registration.
- (c) **Rabies Vaccination.** All dogs present on Band lands, which are over six (6) months of age, must be vaccinated against rabies each and every year. The owner must show proof of vaccination to the Department of Public Safety at the time they register their dog(s) or bring such proof into the Department of Public Safety office within fourteen (14) calendar days of registration. All dogs on Band lands must be collared and tagged with a current rabies Tag. Owners must show proof of rabies vaccination to the Department of Public Safety on an annual basis or be subject to fines and other penalties as provided in this subchapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3002.  
Band Ordinance 42-22.

**§ 3003. Dangerous Dogs.**

A dog may not be declared dangerous based on a threat, injury, or damage sustained by a person who, at the time of such threat, injury, or damage, was:

- (a) committing a willful trespass or other unlawful conduct upon the premises occupied by the owner of the dog;
- (b) intentionally provoking, tormenting, abusing, or assaulting the dog; or
- (c) committing or attempting to commit a crime.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3002.

Band Ordinance 42-22.

#### **§ 3004. Confiscation and Disposal of Dangerous Dogs and Other Dogs.**

- (a) A tribal enforcement officer may confiscate and take to the nearest animal shelter any dog on Band lands if the officer has reasonable cause to believe:
  - (1) the dog is running loose;
  - (2) the dog is not being maintained in a proper dog enclosure;
  - (3) the dog is outside a proper dog enclosure and is not under the physical restraint of a responsible and able person;
  - (4) the dog is not maintained in a proper dog enclosure, the dog is outside the owner's property line, and the officer has reasonable cause to believe that the dog will commit an aggressive act which is imminent and will be dangerous to the public;
  - (5) the dog is noticeably diseased, injured, or maimed; or
  - (6) the dog is chasing deer or livestock.
- (b) If, in a proceeding in the Court of Central Jurisdiction against the registered owner of a dog confiscated under subsection (a) of this section, it is found by a preponderance of the evidence that the dog is a dangerous dog within the meaning of this subchapter, the Court may order the dog destroyed, order the owner to reimburse the Band for the cost of confiscating, maintaining, and destroying the dog, and may impose a fine not to exceed \$500. If, in such a proceeding, the dog is not found to be a dangerous dog, the Court may order the dog returned to the registered owner under appropriate conditions and, if it is found by a preponderance of the evidence that the confiscation was proper under this subchapter, the Court may order the registered owner to

reimburse the Band for the cost of confiscating, maintaining, and returning the dog and may impose a fine not to exceed \$250.

- (c) If there is not registered owner of a dog confiscated under subsection (a) of this section, the dog may be taken to the nearest animal shelter or otherwise disposed of by the tribal enforcement officer.
- (d) **Posted Signs.** Any person subject to the jurisdiction of the Band who keeps a potentially dangerous dog on Band lands must post a “Beware of Dog” sign on the dog enclosure in which the dog is maintained and/or on the property on which the dog is maintained, which sign is clearly visible to the public.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3003.  
Band Ordinance 42-22.

#### **§ 3005. Fines.**

- (a) Any person subject to the jurisdiction of the Band who fails to register a dog with the Department of Public Safety or provide proof of rabies vaccination to the Department of Public Safety as required by this subchapter shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, an order shall be issued and a fine shall be imposed, as follows:
  - (1) first offense, an order to register and/or tag the dog(s) shall be issued;
  - (2) second offense, an order to register and/or tag the dog(s) shall be issued and a fine in the amount of \$50.00 shall be imposed;
  - (3) third offense, an order to remove the dog(s) from Band lands shall be issued and a fine in the amount of \$100.00 shall be imposed.
- (b) Any person subject to the jurisdiction of the Band who fails to post a “Beware of Dog” sign in violation of § 3004(d) of this Chapter shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, an order shall be issued and a fine shall be imposed, as follows:
  - (1) first offense, an order to post the sign shall be issued and a fine in the amount of \$50.00 shall be imposed;
  - (2) second offense, an order to post the sign shall be issued and a fine in the amount of \$100.00 shall be imposed;
  - (3) third offense, an order to remove the dog(s) from Band lands shall be issued and a fine in the amount of \$150.00 shall be imposed.

- (c) **Liability for Medical Expenses.** Any person subject to the jurisdiction of the Band whose dog, while on Band lands, bites any person without provocation and inflicts bodily injury, shall be guilty of a civil misdemeanor. If, by a preponderance of the evidence, such person is found guilty of such charge, a fine in the maximum amount of \$350.00 shall be imposed and the victim's medical costs shall be assessed against such person. If, by a preponderance of the evidence, such person is found guilty of a second such charge involving the same dog, a fine in the maximum amount of \$700.00 shall be imposed, an order to destroy the dog shall be issued, and the victim's medical costs and the costs of destroying the dog shall be assessed against such person.

#### Historical and Statutory Notes

**Source:**

Band Ordinance 28-03, § 3004.  
Band Ordinance 42-22.

#### § 3006. Abandoned Dogs; Duty of Officers.

- (a) **Abandonment.** It is unlawful for any person subject to the jurisdiction of the Band to abandon a dog on Band lands. Any person subject to the jurisdiction of the Band found, by a preponderance of the evidence, to have abandoned a dog on Band lands shall be guilty of a civil misdemeanor subject to a minimum fine of \$50. Such fine may not exceed \$500. Tribal law enforcement shall first issue a verbal warning, a written warning, and then shall issue a fine.
- (b) **Delivery to shelter.** Any tribal enforcement officer or animal control officer may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal, or wandering the roads, parking areas, or other public areas without a collar or visible current rabies tag. When necessary, a tribal enforcement officer or animal control officer may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in § 3026(c) of this chapter, and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be found, or does not, within ten (10) calendar days after notice, redeem the animal by paying the expenses authorized by this subsection, the animal may be disposed of or released as provided in § 3026 of this chapter.
- (c) **Disposal of animals.** Upon a proper determination by a licensed veterinarian, any animal taken into custody pursuant to subsection (b) may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and

treatment. The expenses of disposal shall be subject to the provisions of § 3025 of this chapter.

- (d) **Expenses.** The expenses of the delivery to an animal shelter, any and all animal shelter costs, including the fee of the licensed veterinarian, the expenses of keeping or disposing of any animal taken into custody pursuant to this section, and all other expenses reasonably incident to the section shall be paid from the general fund, as appropriated by the Band Assembly. If the person alleged to have violated this section is found guilty of the violation, the Band, animal shelter, or designated animal welfare agency shall have judgment against the guilty person for the amount of the expenses.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3005.  
Band Ordinance 42-22.

#### **§ 3007. Dog Houses.**

- (a) **In general.** A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall, at a minimum, provide the dog with shelter and bedding.
- (b) **Shelter specifications.** The shelter shall include a moisture-proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture-proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31, the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.
- (c) **Shade.** Shade from the direct rays of the sun, during the months of May to October shall be provided.
- (d) **Farm dogs.** In lieu of the requirements of subsections (b) and (c), a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.
- (e) **Zoning.** All shelters required by this section shall be subject to all building or zoning regulations of the Band and any city, township, county, or state, if applicable.
- (f) **Penalty.** Whoever violates the provisions of this section is guilty of a petty misdemeanor.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

### **§ 3008. Civil Causes of Action.**

Nothing in this subchapter shall prevent an individual from pursuing a civil cause of action for injuries sustained from a dog bite or attack.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3006.  
Band Ordinance 42-22.

### **§ 3009. Jurisdiction.**

The Court of Central Jurisdiction shall have jurisdiction over all actions pertaining to this subchapter.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3007.  
Band Ordinance 42-22.

### **§ 3010. Sovereign Immunity.**

Nothing in this subchapter shall be construed as a waiver of sovereign immunity of the Band.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3008.  
Band Ordinance 42-22.

### **§ 3011. Severability.**

If the Court of Central Jurisdiction adjudges any provision of this subchapter to be invalid, such judgment shall not affect any other provisions of this subchapter not specifically included in the judgment.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 28-03, § 3009.  
Band Ordinance 42-22.

## **SUBCHAPTER 2**

### **ANIMAL PROTECTION**

**Section**

- 3021. Purpose.**
- 3022. Definitions.**
- 3023. Tribal Law Enforcement Policies.**
- 3024. Overworking or Mistreating Animals; Penalty.**
- 3025. Immunity.**
- 3026. Investigation of Cruelty Complaints.**
- 3027. Expenses of Investigation.**
- 3028. Disposal or Release of Seized Animals.**
- 3029. Poisoning Animals.**
- 3030. Animal with Infectious Disease.**
- 3031. Abandonment; Duty of Officers.**
- 3032. Animals Fights and Possession of Fighting Animals.**

**§ 3021. Purpose.**

The purpose of this subchapter is to respect, honor, and protect animals in a manner that is consistent with Band culture and tradition. Any ambiguity in this subchapter shall be construed according to the cultural and traditional principles of the Anishinabe people.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

**§ 3022. Definitions.**

Unless otherwise provided in this section, all words in this chapter shall be construed according to their ordinary meaning. The following terms are defined for purposes of this chapter.

- (a) **“Abandon”** means when an animal does not have proper shelter from cold, hot, or inclement weather or not properly fed and watered, or provided with suitable food and water in circumstances that threaten the life of the animal.

- (b) **“Animal”** means every living creature except members of the human race.
- (c) **“Animal control officer”** means an officer employed by or under contract with an agency of the Band, state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.
- (d) **“Animal shelter”** means a facility, whether organized under the Band or a private entity, that houses, disposes of, and puts up for adoption abandoned, homeless, and lost animals.
- (e) **“Court”** means the Court of Central Jurisdiction.
- (f) **“Cruelty”** or **“Torture”** means every act, omission, or neglect which causes or permits unnecessary or unjustifiable pain, suffering, or death.
- (g) **“Designated animal welfare agency”** means a private entity, such as an animal shelter, rehabilitation center, or rescue center, which assists the Band in removing, rescuing, and finding care and a home for an animal, pet, or service dog.
- (h) **“Emotional harm”** means mental injury which results in an animal to be distrustful, withdrawn, hostile, vicious, depressed, or reclusive, caused by deliberately inflicting stress by terrorizing, excessive verbal punishment, isolation, or intimidation.
- (i) **“Great bodily harm”** means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ, or other serious bodily harm to a service animal or a pet.
- (j) **“Pet”** means any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal.
- (k) **“Service animal”** means an animal trained to assist a person with a disability.
- (l) **“Substantial bodily harm”** means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member to a service animal or a pet.
- (m) **“Temporary abandonment”** means allowing any maimed, sick, infirm, or disabled animal to lie in any street, road, or other public place for more than three (3) hours after receiving notice of the animal's condition.
- (n) **“Tribal Enforcement Officer”** means a Band Department of Natural Resources conservation officer, Tribal Police Officer or designated employee within tribal law enforcement, or designated animal welfare agency.

### Historical and Statutory Notes

**Source:**

Band Ordinance 42-22.

### § 3023. Tribal Law Enforcement Policies.

Tribal law enforcement shall promulgate policies to carry out the intent of this chapter, which shall be ratified by the Band Assembly.

### Historical and Statutory Notes

**Source:**

Band Ordinance 42-22.

### § 3024. Overworking or Mistreating Animals; Penalty.

- (a) **Torture.** No person shall overdrive, overload, torture, cruelly beat, neglect, or unjustifiably injure, maim, mutilate, or kill any animal, or cruelly work any animal when it is unfit for labor, whether it belongs to that person or to another person.
- (b) **Nourishment; shelter.** No person shall deprive any animal over which the person has charge or control of necessary food, water, or shelter.
- (c) **Enclosure.** No person shall keep any animal in any enclosure without providing wholesome exercise and change of air.
- (d) **Cruelty.** No person shall willfully instigate or in any way further any act of cruelty to any animal or animals, or any act tending to produce cruelty to animals.
- (e) **Improper Confinement.** No person shall improperly confine an animal unless the confinement is constructed of solid material on three sides to protect the caged animal from the elements and unless the horizontal dimension of each side of the confinement is at least four times the length of the confined animal, with the exception of domesticated animals, such as cats and dogs, which shall have proper confinement based on their size relative to their confinement of a kennel. Improper confinement also includes confining an animal in an unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. The provisions of this subsection do not apply to captive wildlife.
- (f) **Harming a service animal.** No person shall intentionally and without justification do either of the following to a service animal while it is providing service or while it

is in the custody of the person it serves: (1) cause bodily harm to the animal; or (2) otherwise render the animal unable to perform its duties.

(g) **Penalty.**

- (1) Except as otherwise provided in this subsection, a person who fails to comply with any provision of this section may be issued a fine not less than \$500.00.
- (2) A person who intentionally violates subsection (a) or (e) where the violation results in emotional harm or substantial bodily harm to a pet may be issued a fine of not more than \$1,000.00.
- (3) A person convicted of violating paragraph (2) within five years of a previous conviction for violating this section may be issued a fine of not more than \$3,000.00.
- (4) A person who intentionally violates subsection (a) or (e) where the violation results in death or great bodily harm to a pet may be issued a fine of not more than \$3,000.00.
- (5) A person who violates subsection (f) where the violation renders the service animal unable to perform its duties may be issued a fine of not more than \$3,000.00.
- (6) A person who violates subsection (f) where the violation results in substantial bodily harm to a service animal may be issued a fine of not more than \$3,000.00.
- (7) A person who intentionally violates subsection (a) or (e) where the violation results in emotional harm or substantial bodily harm to a pet, and the act is done to threaten, intimidate, or terrorize another person, may be issued a fine of not more than \$3,000.00.
- (8) A person who violates subsection (f) where the violation results in death or great bodily harm to a service animal may be issued a fine of not more than \$5,000.00.
- (9) A person who intentionally violates subsection (a) or (e) where the violation results in death or great bodily harm to a pet, and the act is done to threaten, intimidate, or terrorize another person, may be issued a fine of not more than \$5,000.00.

(h) **Harm to service animals; mandatory restitution and civil remedies.**

- (1) The court shall order a person convicted of violating subsection (f) to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of

income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

- (2) This section does not preclude a person from seeking any available civil remedies for an act that violates subsection (f).
- (i) **Restrictions.** If a person is convicted of violating this section, the court shall require that pets that have not been seized by a tribal enforcement officer and are in the custody or control of the person must be turned over to a tribal enforcement officer unless the court determines that the person is able and fit to provide adequately for an animal. If the evidence indicates lack of proper and reasonable care of an animal, the burden is on the person to affirmatively demonstrate by clear and convincing evidence that the person is able and fit to have custody of and provide adequately for an animal. The court may limit the person's further possession or custody of a pet, and may impose other conditions the court considers appropriate, including, but not limited to:
  - (1) imposing a probation period during which the person may not have ownership, custody, or control of a pet;
  - (2) requiring periodic visits of the person by a tribal police officer;
  - (3) requiring performance by the person of community service; and
  - (4) requiring the person to receive psychological, behavioral, or other counseling.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

#### **§ 3025. Immunity.**

- (a) **Veterinarian.** A licensed veterinarian acting in good faith and in the normal course of business is immune from civil and criminal liability in any action arising in connection with the report of a suspected incident of animal cruelty.
- (b) **Tribal Enforcement Officer.** A tribal enforcement officer and any volunteer or third-party entity contracting with the tribal police department, who is acting in good faith and in the normal course of business, is immune from civil and criminal liability in any action arising in connection with the report of a suspected incident arising under §§ 3024, 3031.

- (c) **Good Samaritan.** A person may take reasonable steps that are necessary to remove an animal from a motor vehicle if the person holds a reasonable belief that the animal's safety is in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal. A person who removes an animal from a vehicle shall not be charged with criminal liability or civil liability for actions taken if the person:
- (1) determines the vehicle is locked or there is otherwise no reasonable manner for the animal to be removed from the vehicle;
  - (2) has a good faith belief that forcible entry into the vehicle is necessary because the animal is in imminent danger of suffering harm if it is not immediately removed from the vehicle, and, based upon the circumstances known to the person at the time, the belief is a reasonable one;
  - (3) has contacted a tribal enforcement officer or local law enforcement, the fire department, or the "911" emergency service prior to forcibly entering the vehicle;
  - (4) remains with the animal in a safe location, out of the elements but reasonably close to the vehicle, until a peace or animal control officer or another emergency responder arrives;
  - (5) used no more force to enter the vehicle and remove the animal from the vehicle than was necessary under the circumstances; and
  - (6) immediately turns the animal over to a tribal enforcement officer or another emergency responder who responds to the scene.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

#### **§ 3026. Investigation of Cruelty Complaints.**

- (a) **Reporting.** Any person who has reason to believe that a violation of this subchapter has taken place or is taking place may apply to the court alleging violation of that section for a warrant and for investigation. The court shall examine under oath the person applying and any witnesses the applicant produces and the court shall take their affidavits in writing. The affidavits must set forth facts tending to establish the grounds for believing a violation of this subchapter has occurred or is occurring, or probable cause to believe that a violation exists. If the court is satisfied of the existence of the grounds of the application, or that there is probable cause to believe a violation exists, it shall issue a signed search warrant and order for investigation to

a tribal police officer. The order shall command the officer to proceed promptly to the location of the alleged violation. The order may command that a licensed veterinarian accompany the officer.

- (b) **Police investigation.** The tribal police officer shall search the place designated in the warrant and, together with the veterinary doctor, shall conduct an investigation of the facts surrounding the alleged violation. The officer may retain in custody, subject to the order of the court, any property or things which are specified in the warrant, including any animal if the warrant so specifies. The warrant shall contain the names of the persons presenting affidavits in support of the application and the grounds for its issuance. Service shall be made in accordance with Band law. The warrant must be executed and returned to the court which issued the warrant within ten (10) business days after its date; after the expiration of that time, unless executed, the warrant is void. The officer executing the warrant shall promptly return the warrant to the court, and deliver to it a written inventory of the property or things taken, verified by the certificate of the officer.
- (c) **Disposal of animals.** Upon a proper determination by a licensed veterinarian, any animal taken into custody pursuant to this section may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. All other animals shall be disposed of or released as provided in § 3028. The authority taking custody of the animals may recover all costs incurred under this section.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

#### **§ 3027. Expenses of Investigation.**

The expenses of the investigation authorized by § 3026, including the fee of the licensed veterinarian, the expenses of keeping or disposing of any animal taken into custody pursuant to an investigation, and all other expenses reasonably incident to the investigation shall be paid from the general fund, as appropriated by the Band Assembly. If the person alleged to have violated § 3022 is found guilty of the violation, the Band, animal shelter, or designated animal welfare agency shall have judgment against the guilty person for the amount of the expenses.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

#### **§ 3028. Disposal or Release of Seized Animals.**

- (a) **General rule.** An animal taken into custody under this subchapter may be humanely disposed of or released to an animal shelter ten (10) calendar days after the animal is taken into custody, provided that the procedures in subsection (c) are followed. An animal raised for food or fiber products may not be seized or disposed of without prior examination by a licensed veterinarian pursuant to a warrant issued by a judge.
- (b) **Security.** A person claiming an interest in an animal in custody under subsection (a) may prevent disposal of or release of the animal by posting security in an amount sufficient to provide for the animal's actual costs of care and keeping. The security must be posted within ten (10) days of the seizure.
- (c) **Notice; right to hearing.**
  - (1) The authority taking custody of an animal under this subchapter shall give notice of this section by delivering or mailing it to a person claiming an interest in the animal, by posting a copy of it at the place where the animal was taken into custody, or by delivering or mailing it to a person residing on the property. The notice must include:
    - (i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, telephone number, and contact person where the animal is kept;
    - (ii) a statement that a person claiming an interest in the animal may post security as provided in subsection (b) to prevent disposal of the animal and may request a hearing concerning the seizure or impoundment and that failure to do so within ten (10) calendar days of the date of the notice will result in disposal of the animal; and
    - (iii) a statement that all actual costs of the care, keeping, and disposal of the animal are the responsibility of the person claiming an interest in the animal, except to the extent that a court finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.
  - (2) Upon request of a person claiming an interest in the animal, which request must be made within ten (10) calendar days of the date of seizure, a hearing must be held within five (5) business days of the request, to determine the validity of the seizure and impoundment. If the seizure was done pursuant to a warrant under this subchapter, the hearing must be conducted by the judge who issued the warrant.
  - (3) The judge may authorize the return of the animal, if the court finds:

- (i) the animal is physically fit; and
  - (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal.
- (4) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that the court finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the Band and the person claiming an interest in the animal before return of the animal to the person.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

#### **§ 3029. Poisoning Animals.**

Any person who unjustifiably administers any poisonous, or noxious drug or substance to any animal, or procures or permits it to be done, or unjustifiably exposes that drug or substance with intent that the drug be taken by any animal, whether the animal is the property of the person or another, is guilty of a civil misdemeanor and shall be issued a fine of \$2,000.00.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

#### **§ 3030. Animal with Infectious Disease.**

An owner or person having charge of any animal who knows the animal has any infectious or contagious disease, or knows the animal has recently been exposed to an infectious or contagious disease, who sells or barter the animal, or knowingly permits the animal to run at large or come into contact with any other animal, or with another person without that person's knowledge and permission shall be guilty of a civil misdemeanor and shall be issued a fine of \$500.00.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

#### **§ 3031. Abandonment; Duty of Officers.**

- (a) **Abandonment.** For all other animals not specified in subchapter 1 of this chapter, it is unlawful to abandon or temporarily abandon an animal. Any person subject to the jurisdiction of the Band found, by a preponderance of the evidence, to have abandoned an animal on Band lands shall be guilty of a civil misdemeanor and shall be subject to a minimum fine of \$50.00. Such fine may not exceed \$500.00. Tribal law enforcement shall first issue a verbal warning, a written warning, and then shall issue a fine.
- (b) **Delivery to shelter.** Any tribal enforcement officer may remove, shelter, and care for any animal which is not properly sheltered from cold, hot, or inclement weather or any animal not properly fed and watered, or provided with suitable food and drink in circumstances that threaten the life of the animal. When necessary, a tribal enforcement officer may deliver the animal to another person to be sheltered and cared for, and furnished with suitable food and drink. In all cases, the owner, if known, shall be immediately notified as provided in § 3026(c), and the person having possession of the animal, shall have a lien thereon for its actual costs of care and keeping and the expenses of the notice. If the owner or custodian is unknown and cannot by reasonable effort be found, or does not, within ten (10) calendar days after notice, redeem the animal by paying the expenses authorized by this subsection, the animal may be disposed of or released as provided in § 3028.
- (c) **Disposal of animals.** Upon a proper determination by a licensed veterinarian, any animal taken into custody pursuant to subsection (b) may be immediately disposed of when the animal is suffering and is beyond cure through reasonable care and treatment. The expenses of disposal shall be subject to the provisions of § 3027.
- (d) **Expenses.** The expenses of the delivery to an animal shelter, any and all animal shelter costs, including the fee of the licensed veterinarian, the expenses of keeping or disposing of any animal taken into custody pursuant to this section, and all other expenses reasonably incident to the section shall be paid from the general fund, as appropriated by the Band Assembly. If the person alleged to have violated this section is found guilty of the violation, the Band, animal shelter, or designated animal welfare agency shall have judgment against the guilty person for the amount of the expenses.

#### Historical and Statutory Notes

**Source:**

Band Ordinance 42-22.

#### § 3032. Animals Fights and Possession of Fighting Animals.

- (a) **Penalty for animal fighting; attending animal fight.**
  - (1) Whoever does any of the following is guilty of a civil misdemeanor and shall be issued a fine of \$5,000.00:

- (i) promotes, engages in, or is employed in the activity of cockfighting, dogfighting, or violent pitting of one pet against another of the same or a different kind;
  - (ii) receives money for the admission of a person to a place used, or about to be used, for that activity;
  - (iii) willfully permits a person to enter or use for that activity premises of which the permitting person is the owner, agent, or occupant; or
  - (iv) uses, trains, or possesses a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.
- (2) Whoever purchases a ticket of admission or otherwise gains admission to the activity of cockfighting, dogfighting, or violent pitting of one pet against another of the same or a different kind is guilty of a civil misdemeanor and shall be issued a fine of \$1,000.00.
- (3) Whoever possesses any device or substance with intent to use or permit the use of the device or substance to enhance an animal's ability to fight is guilty of a civil misdemeanor and shall be issued a fine of \$1,000.00.
- (4) This subsection shall not apply to the taking of a wild animal by hunting.

(b) **Presumption of training a fighting dog.**

- (1) There is a rebuttable presumption that a dog has been trained or is being trained to fight if:
- (i) the dog exhibits fresh wounds, scarring, or other indications that the dog has been or will be used for fighting; and
  - (ii) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare dogs to be fought.
- (2) This presumption may be rebutted by a preponderance of the evidence.

(c) **Presumption of training fighting birds.**

- (1) There is a rebuttable presumption that a bird has been trained or is being trained to fight if:
- (i) the bird exhibits fresh wounds, scarring, or other indications that the bird has been or will be used for fighting; or

- (ii) the person possesses training apparatus, paraphernalia, or drugs known to be used to prepare birds to be fought.
- (2) This presumption may be rebutted by a preponderance of the evidence.
- (d) **Tribal enforcement officer duties.** Animals described in subsection (b) and (c) are dangerous weapons and constitute an immediate danger to the safety of humans. A tribal enforcement officer may remove, shelter, and care for an animal found in the circumstances described in subsection (b) and (c). If necessary, a tribal enforcement officer may deliver the animal to another person to be sheltered and cared for. In all cases, the tribal enforcement officer must immediately notify the owner, if known, as provided in subsection (e). The tribal enforcement officer or other person assuming care of the animal shall have a lien on it for the actual cost of care and keeping of the animal. If the owner or custodian is unknown and cannot by reasonable effort be ascertained, or does not, within ten (10) calendar days after notice, redeem the animal by paying the expenses authorized by this subsection, the animal may be disposed of or released as provided in subsection (e).
- (e) **Disposal or Release.**
  - (1) An animal taken into custody under subsection (d) may be humanely disposed of or released to an animal shelter at the discretion of the jurisdiction having custody of the animal ten (10) calendar days after the animal is taken into custody, if the procedures in paragraph (3) are followed.
  - (2) The owner of an animal taken into custody under subsection (d) may prevent disposal of or release of the animal by posting security in an amount sufficient to provide for the actual costs of care and keeping of the animal. The security must be posted within ten (10) calendar days of the seizure. If, however, a hearing is scheduled within ten (10) calendar days of the seizure, the security amount must be posted prior to the hearing.
  - (3) The authority taking custody of an animal under subsection (d) must give notice of this section by delivering or mailing it to the owner of the animal, posting a copy of it at the place where the animal is taken into custody, or delivering it to a person residing on the property. The notice must include:
    - (i) a description of the animal seized; the authority and purpose for the seizure; the time, place, and circumstances under which the animal was seized; and the location, address, and telephone number of a contact person who knows where the animal is kept;
    - (ii) a statement that the owner of the animal may post security to prevent disposal of or release of the animal and may request a hearing concerning the seizure and impoundment and that failure to do so

within ten (10) calendar days of the date of the notice will result in disposal of or release of the animal; and

- (iii) a statement that all actual costs of the care, keeping, and disposal of or release of the animal are the responsibility of the owner of the animal, except to the extent that the court finds that the seizure or impoundment was not substantially justified by law. The notice must also include a form that can be used by a person claiming an interest in the animal for requesting a hearing.
  - (4) The owner may request a hearing within ten (10) calendar days of the date of the seizure. If requested, a hearing must be held within five (5) business days of the request to determine the validity of the impoundment.
  - (5) The judge may authorize the return of the animal if the judge finds that:
    - (i) the animal is physically fit;
    - (ii) the person claiming an interest in the animal can and will provide the care required by law for the animal; and
    - (iii) the animal has not been used for violent pitting or fighting.
  - (6) The person claiming an interest in the animal is liable for all actual costs of care, keeping, and disposal of the animal, except to the extent that the court finds that the seizure or impoundment was not substantially justified by law. The costs must be paid in full or a mutually satisfactory arrangement for payment must be made between the Band and the person claiming an interest in the animal before the return of the animal to the person.
- (f) **Photographs.**
- (1) Photographs of animals seized during an investigation are competent evidence if the photographs are admissible into evidence under all the rules of law governing the admissibility of photographs into evidence. A satisfactorily identified photographic record is as admissible in evidence as the animal itself.
  - (2) A photograph must be accompanied by a written description of the animal seized, the name of the owner of the animal seized, the date of the photograph, and the name, address, organization, and signature of the photographer.
- (g) **Veterinary investigative report.**

- (1) A report completed by a licensed veterinarian following an examination of an animal seized during an investigation is competent evidence. A satisfactorily identified veterinary investigative report is as admissible in evidence as the animal itself.
- (2) The veterinary investigative report may contain a written description of the animal seized, the medical evaluation of the physical findings, the prognosis for recovery, and the date of the examination and must contain the name, address, veterinary clinic, and signature of the veterinarian performing the examination.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 42-22.

**CHAPTER 5**

**1837 TREATY CONSERVATION CODE FOR THE MINNESOTA CEDED TERRITORY**

<u>Subchapter</u>	<u>Section</u>
1. General Provisions	4001
2. General Definitions	4011
3. General Regulations	4021
4. Enforcement	4081
5. Wild Rice Harvesting Regulations	5011
6. Deer Harvesting Regulations	5041
7. Bear Harvesting Regulations	5081
8. Small Game Harvesting Regulations	5121
9. Fish Harvesting Regulations	5161
10. Migratory Bird Harvesting Regulations	5201
11. Amphibians, Turtles, Mussels, and Crayfish	5241
12. Wild Plant Harvesting Regulations	5261

**Historical and Statutory Notes**

Band Ordinance 07-97 (this Chapter), §§ 1.01, 1.02, 1.05, 1.07, and 1.08 provide:

“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 MLBS § 2(a).”

“1.05 Effective Date. Except as otherwise provided in specific sections, the provisions of this ordinance shall become effective at 12:01am on March 15, 1997.”

“1.07 Severability and Immunity. If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction the remainder of this ordinance shall not be affected thereby. The Band does not waive and to the contrary asserts to the fullest extent allowed by law immunity on its part and that of its officers, employees, and/or agents from any claims, actions or damages that may arise under or result from this ordinance.”

“1.08 Repeal of Inconsistent Ordinances, Resolutions and Orders. All Band ordinances, resolutions and orders inconsistent with this ordinance are hereby repealed. To the extent that this ordinance imposes great restrictions that those contained in any other ordinance, resolution or order, the provisions of this ordinance shall govern.”

## **SUBCHAPTER 1**

### **GENERAL PROVISIONS**

#### **Section**

**4001. Purpose.**

**4002. Territorial Applicability.**

**4003. Interpretation.**

**4004. Religious or Ceremonial Use of Natural Resources.**

**4005. Additional Measures.**

#### **§ 4001. Purpose.**

It is the purpose of this Chapter 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:

- (a) promotes public health and safety and the conservation and management of fish, wildlife and plant populations in the Minnesota Ceded Territory; and
- (b) 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. 394-1226 (D. Minn.).

#### **Historical and Statutory Notes**

##### **Source:**

Band Ordinance 07-97, § 1.03.

#### **§ 4002. Territorial Applicability.**

This Chapter shall govern all treaty hunting, fishing and gathering activities of Band members within the Minnesota Ceded Territory.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 1.04.

#### **§ 4003. Interpretation.**

The provisions of this Chapter:

- (a) Shall be interpreted and applied as minimum requirements applicable to the exercise of treaty rights subject to this Chapter;
- (b) Shall be construed liberally in favor of the Band;
- (c) Shall be construed consistently 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.); and
- (d) Shall not be deemed a limitation or repeal of any other tribal power or authority.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 1.06.

#### **§ 4004. Religious or Ceremonial Use of Natural Resources.**

- (a) Except as provided in paragraphs (b) and (c) below and § 4046, nothing in this Chapter shall prohibit the harvest or use of any resource for religious or ceremonial purposes in accordance with the traditions and customs of the Band.
- (b) No member shall harvest any resource for religious or ceremonial purposes without written authorization from the Department of Natural Resources and a permit issued by the Commissioner pursuant to this section, and no member shall fail to comply with the terms and conditions of any such permit.
- (c) 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.).

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 1.09.

**§ 4005. 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 Chapter.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 1.10.

## SUBCHAPTER 2

### GENERAL DEFINITIONS

**Section**

**4011. General Definitions.**

**§ 4011. General Definitions.**

The following terms, wherever used in this Chapter, shall be construed as follows:

- (a) **"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.).
- (b) **"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 Chapter in particular circumstances, includes the hide or skin and head.
- (c) **"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.
- (d) **"Commission"** means the Great Lakes Indian Fish and Wildlife Commission.
- (e) **"Commissioner"** means the Commissioner of Natural Resources of the Mille Lacs Band, unless the context expressly indicates otherwise.

- (f) **"Department of Natural Resources"** means the Band's conservation department, unless the context expressly indicates otherwise.
- (g) **"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 endangered or threatened. The Commissioner's list shall, at a minimum, initially contain all species listed by the State of Minnesota as threatened or endangered as of January 1, 1995, but may be revised hereafter in accordance with the provisions in the final decree in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226 (D. Minn.).
- (h) **"Fishing"** includes taking, capturing, killing or attempting to take, capture or kill fish of any variety in any manner. When the word "fish" is used as a verb, it shall have the same meaning as the word "fishing" as defined herein.
- (i) **"Game fish"** includes all varieties of fish except rough fish and minnows; **"rough fish"** means carp, buffalo, sucker, sheepshead, bowfin, burbot, cisco, gar, goldeye and bullhead; **"minnows"** includes
- (1) the minnow family, Cyprinidae, except carp and goldfish;
  - (2) members of the mudminnow family; Umbridae;
  - (3) members of the sucker family, Catostomidae, not over 12 inches in length;
  - (4) bullheads, ciscoes, lake white fish, goldeyes, and mooneyes, not over seven inches long; and
  - (5) leeches.
- (j) **"Gathering"** means to take or acquire or attempt to take or acquire possession of any wild plant or any part thereof.
- (k) **"Hunt" or "Hunting"** includes shooting, shooting at, taking, catching, or killing any wild animal or animals, or attempting to do any of the foregoing, except that "hunt" or "hunting" does not include the recovery of any wild animal which has already been lawfully reduced to possession.
- (l) **"Member"** means a member of the Band.
- (m) **"Minnesota Ceded territory"** means all lands and waters in Minnesota that were ceded by the Chippewa to the United States of America in the Treaty of 1837, 7 Stat. 536.

- (n) **"Motor Vehicle"** means a self-propelled vehicle or a vehicle propelled or drawn by a self-propelled vehicle that is operated on a highway, on a railroad track, on the ground, in the water, or in the air.
- (o) **"Non-member"** means a person who is not a member of any one of the Bands.
- (p) **"Possession"** means having killed, harvested, or otherwise obtained or acquired any wild animal or wild plant subject to the provisions of this Chapter.
- (q) **"Protected Species"** means any wild animal or wild plant, the hunting, fishing, trapping or gathering of which is prohibited by § 4050 of this Chapter.
- (r) **"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:
  - (1) **"family"** means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis;
  - (2) **"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
  - (3) **"barter"** means the sale or exchange of natural resources or parts thereof for subsistence uses between members of the Bands.
- (s) **"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.
- (t) **"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 Chapter.
- (u) **"Wild animal"** means any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion.
- (v) **"Wildlife"** means all varieties of wild animals.
- (w) **"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.

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

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 2.01.

## **SUBCHAPTER 3**

### **GENERAL REGULATIONS**

**Section**

- 4021. Regulatory Authority.**
- 4022. Permits and Identification.**
- 4023. Waste of Natural Resources.**
- 4024. Larceny of Natural Resources.**
- 4025. Use of Poison and Explosives; Pole Traps.**
- 4026. Throwing Refuse in Waters; Abandoning Automobiles, Boats or Other.**
- 4027. Fish Stocking; Undesirable Exotic Aquatic Plants or Wild Animals.**
- 4028. Scientific Investigation.**
- 4029. Seasons.**
- 4030. Possession of Wild Plants or Wild Animals Taken During Closed Season.**
- 4031. Bag Limits; Possession Limits.**
- 4032. Sharing of Permits and Tags.**
- 4033. Harvesting with Another's Permit Prohibited.**
- 4034. Shining Animals.**
- 4035. Duties on Accidental Shooting.**
- 4036. Failure to Report Hunting Accident.**
- 4037. Hunter Education Requirements and Restrictions on Hunting by Members Under 14 Years of Age.**
- 4038. Hunting While Intoxicated.**
- 4039. Resisting Conservation Wardens.**
- 4040. False Impersonation of Warden.**
- 4041. General Restrictions on Hunting.**
- 4042. Use of Motor Vehicles to Chase Wild Animals Prohibited.**
- 4043. Hunting with Aircraft Prohibited.**
- 4044. Pivot Guns and Similar Devices Prohibited.**
- 4045. Tampering with Equipment of Another Prohibited.**
- 4046. Endangered and Threatened Species Protected.**
- 4047. Records of Commercial Transactions Required.**
- 4048. Special Use Areas.**
- 4049. Unprotected Species.**
- 4050. Protected Species.**
- 4051. Permissible Conduct/Assistance by Non-Members.**

- 4052. Emergency Closures.**
- 4053. Management Units.**
- 4054. Registration Stations.**
- 4055. Transfers.**
- 4056. Removal of Signs.**
- 4057. Hunter, Trapper, and Angler Harassment Prohibited.**
- 4058. Fishing and Motorboats Prohibited in Certain Areas.**
- 4059. Structures in Public Waters Prohibited.**
- 4060. Training Dogs.**
- 4061. Permits to Take Animals Causing Damage**

**§ 4021. Regulatory Authority.**

- (a) The Band asserts legal authority to regulate the harvesting, use and disposition of all wild plants and wild animals by its members within the Minnesota Ceded Territory under the 1837 Treaty.
- (b) An officer of one of the Bands or other law enforcement official authorized to enforce the provisions of this Chapter may seize forthwith wherever found:
  - (1) any wild plant or wild animal, or carcass or part thereof, taken or reduced to possession in violation of this Chapter; or
  - (2) any wild plant or wild animal, or carcass or part thereof, lawfully taken or reduced to possession under this Chapter, upon violation of the Chapter relating to the possession, use, giving, sale, barter or transportation of such wild plant or wild animal, or carcass or part thereof.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.01.

**§ 4022. Permits and Identification.**

- (a) No member shall engage in the exercise of 1837 treaty rights regulated by this Chapter without a validly issued Band natural resources harvesting permit or such other permit as this Chapter may require validated for the particular type of activity to be engaged in and for the particular season in question.
- (b) No member shall engage in the exercise of treaty rights regulated by this Chapter except while carrying a valid color picture identification card issued by the Band.
- (c) Except as otherwise provided in this Chapter, the Department of Natural Resources is authorized to issue to members permits required by this Chapter and establish the

form of such permits, provided that such form shall include the member's name, address and Band enrollment number.

- (d) No member shall refuse to display his or her identification documents or any other document or permit required by this Chapter to any Band, state, local or federal law enforcement officer upon request by such officer.
- (e) No member to whom any permit has been issued under this Chapter shall fail or refuse to provide harvest reports and data, and such other relevant information, as may be lawfully requested by one of the Bands', state, local and federal law enforcement officers or the Department of Natural Resources.
- (f) Permits, carcass tags and registration tags issued or used pursuant to this Chapter in connection with any species for which a harvest quota is established shall be numbered sequentially and shall be indexed by number making information regarding the identity of the person who has been issued a tag or permit promptly accessible.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.02.

#### **§ 4023. 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 Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.03.

#### **§ 4024. 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.04.

#### **§ 4025. Use of Poison and Explosives; Pole Traps.**

- (a) 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.
- (b) 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.
- (c) 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 Chapters is prima facie evidence of a violation of this section.
- (d) 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.05.

#### **§ 4026. 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.06.

#### **§ 4027. Fish Stocking; Undesirable Exotic Aquatic Plants or Wild Animals.**

- (a) Except in connection with a harvest activity authorized by this Chapter or as otherwise permitted by controlling law, a member may not import, transport or stock

in any waters in the Minnesota Ceded Territory live fish eggs, fresh spawn, or immature or adult fish of any species or any mussel, turtle or crayfish without a permit issued by the Commissioner.

(b)

- (1) The Commissioner is authorized to establish a ceded territory program to prevent and curb the spread of harmful exotic species. This program may include a long-term plan, which may include specific plans for individual species, for ceded territory wide management of harmful exotic species. Any exotic species program or harmful exotic species management plan may be developed in conjunction with any corresponding state management plan required by state law. The Commissioner may adopt the state management plan, or relevant portions thereof, as the ceded territory program.
- (2) For the purposes of this Chapter, the term "exotic species" means a wild animal or plant species that is not naturally present or reproducing within the ceded territory or that does not naturally expand from its historic range in the ceded territory, and the term "harmful exotic species" means an exotic species that can naturalize and either:
  - (i) causes or may cause displacement of or otherwise threaten native species in their natural communities; or
  - (ii) threaten or may threaten natural resources or their use in the ceded territory.

(c)

- (1) No later than May 1 of each year and at such other times during the year as may be necessary, the Commissioner shall designate any waters of the ceded territory as infested waters if the Commissioner determines that they contain a harmful exotic species that could spread to other waters if use of the water and related activities are not regulated to prevent this. The Commissioner's designation of infested waters, if any, may incorporate the parallel designations under Minnesota state law. The notice that the Commissioner provides to members of the infested waters designations may be the same notice provided for the same waters by the Minnesota Department of Natural Resources under state law. Should the Commissioner fail or choose not to make any infested waters designations required under this subsection, the infested waters designations by the Minnesota Department of Natural Resources under state law, and the accompanying public notice of those designations, shall be deemed the Commissioner's designations for the purposes of this Chapter.

- (2) For the purposes of this Chapter, the term "infested waters" means waters and waterbodies identified by the Commissioner as having populations of select harmful exotic species such as zebra mussel (all species of the genus *Dreissena*), Eurasian milfoil (*Myriophyllum spicatum*), ruffe (*Gymnocephalus cernuus*), spiny water flea, or white perch (*Morone americana*).
- (3) No member shall take any wild animal from infested waters for bait purposes.
- (4) No member shall fail to:
  - (i) dry for a minimum of 10 days or freeze for a minimum of 2 days before use in non-infested 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 non-infested waters.
- (5) No member shall use water from infested waters to transport fish without a permit from the Commissioner.
- (6) 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 live wells and bilges by removing the drain plug before transporting the watercraft and associated equipment on public roads.
- (7) 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.

(d)

- (1) No later than May 1 of each year and at such other times during the year as may be necessary, the Commissioner shall designate waters of the ceded territory as having limited infestations of Eurasian milfoil (*Myriophyllum spicatum*). The Commissioner's designation of limited infestations, if any, may incorporate the parallel designations under Minnesota state law. The notice that the Commissioner provides to members of limited infestations designations may be the same notice provided for the same waters by the Minnesota Department of Natural Resources under state law. Should the

Commissioner fail or choose not to make any limited infestation designations required under this subsection, the limited infestation designations by the Minnesota Department of Natural Resources under state law, and the accompanying public notice of those designations, shall be deemed the Commissioner's designations for the purposes of this Chapter.

- (2) The Commissioner, or his or her designee, may mark and delineate areas of infestation of Eurasian Milfoil where control is planned in water bodies identified as having limited infestations. No member shall enter an area of limited infestation of Eurasian milfoil marked or delineated by the Commissioner or by the Minnesota Department of Natural resources under state law, except:
  - (i) in emergency situations where property or human life is endangered;
  - (ii) by enforcement, emergency, resource management and other Band government personnel or their agents when performing official duties; or
  - (iii) for the purpose of access via the shortest and most direct route through a marked or delineated area by owners or lessees of land adjacent to marked or delineated areas who do not have other water access to their land.

(e)

- (1) The following species are prohibited exotic species for the purposes of this Chapter:
  - (i) Aquatic Plants: Eurasian milfoil (*Myriophyllum spicatum*); hydrilla (*Hydrilla verticillata*); European frog-bit (*Hydorchairs morsusranae*); flowering rush (*Butomus umbellatus*); any variety, hybrid, or cultivar of purple loosestrife (*Lythrum salicaria*, *Lythrum virgatum*, or any combinations); and water chestnut (*Trapa natans*).
  - (ii) Fish: grass carp (*Ctenopharyngodon idella*); rudd (*Scardinius erythrophthalmus*); round goby (*Neogobius melanostomus*); ruffe (*Bymnocephalus cernuus*); sea lamprey (*Petromyzon marinus*); and white perch (*Morone americana*).
  - (iii) Invertebrates: rusty crayfish (*Orconectes rusticus*); and zebra mussel species (all species of the genus *Dreissena*).
  - (iv) Mammals: Asian raccoon dog, also known as finnraccoon (*Nyctereutes procyonoides*); European rabbit (*Oryctolagus cuniculus*); and any strain of nutria (*Mycocastor coypu*).

- (v) Any other species so designated by the Commissioner taking into account the likelihood of introduction of the species if it is allowed to enter or exist in the ceded territory; the likelihood that the species would naturalize in the ceded territory were it introduced; the magnitude of potential adverse impacts of the species on native species and on use of natural resources; the ability to eradicate or control the spread of the species once it is introduced in the ceded territory; and other criteria the Commissioner deems appropriate.
- (2) 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.
- (3) The Commissioner, his or her designees, or any warden authorized to enforce this Chapter, 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.
- (f) Except as otherwise provided in this Chapter, pursuant to a special permit issued by the Commissioner, or as otherwise permitted by controlling law, no member shall place or introduce any exotic species within the ceded territory.

- (g) No member who allows or causes the introduction of a wild animal that is an exotic species shall fail to notify the Commissioner, the Commission, or a warden authorized to enforce this Chapter within 48 hours after learning of the introduction. The member shall make every reasonable attempt to recapture or destroy the introduced animal.
  
- (h)
  - (1) No member shall transport aquatic macrophyte on any state forest road or any other public road except as provided in this subsection. For the purposes of this Chapter, the term "aquatic macrophyte" means a nonwoody plant, either a submerged, floating leafed, floating, or emergent plant that naturally grows in water or hydric soils.
  
  - (2) Unless otherwise prohibited by law, a member may transport aquatic macrophytes:
    - (i) that are duckweed in the family *Lemnaceae*;
    - (ii) for disposal as part of a harvest or control activity conducted under an aquatic plant management permit issued by the Commissioner or as otherwise specified by the Commissioner;
    - (iii) for purposes of constructing shooting or observation blinds in amounts sufficient for that purpose, provided the aquatic acrophytes are emergent and cut above the waterline;
    - (iv) when legally purchased or traded by or from commercial or hobbyist sources for aquarium or ornamental purposes;
    - (v) that are legally harvested if in a motor vehicle;
    - (vi) to the Department of Natural Resources, or another destination as the Commissioner may authorize, in a sealed container for purposes of identifying a species or reporting the presence of a species;
    - (vii) when transporting an aquatic plant harvester used in a properly authorized harvest or control activity to a suitable location for purposes of cleaning any remaining aquatic macrophytes;
    - (viii) that are legally harvested wild rice; or
    - (ix) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl season.

- (i)
  - (1) 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 Chapter 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.
  - (2) 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.
- (j) For the purposes of this section, the term "watercraft" means a contrivance used or designed for navigation on water and includes seaplanes.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.06A.

#### **§ 4028. Scientific Investigation.**

- (a) 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.
- (b) 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.

- (c) The Commissioner may consult the State Department of Natural Resources and appropriate Federal Agencies to facilitate coordination and data comparability of scientific investigations.
- (d) The Commissioner, with the approval of a majority of the Bands, may restrict hunting, fishing and gathering by Band members in order to facilitate scientific investigations undertaken under this section or by the State Department of Natural Resources or the Federal Government.
- (e) No member shall tag or otherwise mark a live fish for identification without a permit from the Commissioner.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.07.

**§ 4029. Seasons.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.08.

**§ 4030. Possession of Wild Plants or Wild Animals Taken During Closed Season.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.09.

**§ 4031. Bag Limits; Possession Limits.**

No member shall have in his or her possession or under his or her control any wild plant or wild animal in excess of the bag or possession limits or above or below the size limits established by this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.10.

**§ 4032. Sharing of Permits and Tags.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.12.

**§ 4033. Harvesting with Another's Permit Prohibited.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.13.

**§ 4034. Shining Animals.**

- (a) **Definitions.** As used in this Chapter:
  - (1) **"Flashlight"** means a battery operated light designed to be carried and held by hand.
  - (2) **"Light"** includes flashlights, automobile lights and other lights.
  - (3) **"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.
- (b) **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.
- (c) **Shining Wild Animals While Hunting or Possessing Weapons Prohibited.**

- (1) **Prohibition.** Except as otherwise provided in subparagraph (2), 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.
  - (2) **Exceptions.** This subparagraph 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 Chapter which allow shining during the open season for the animals hunted;
    - (ii) a person authorized to enforce the provisions of this Chapter 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 § 5059 of this Chapter.
- (d) **Shining Wild Animals After 10 P.M. During Certain Times of the Year Prohibited.**
- (1) **Prohibition.** Except as otherwise provided in subparagraph (2), 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.
  - (2) **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 Chapter which allow shining during the open season for the animals hunted;
    - (ii) a member who possesses a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or unprotected animals, provided that the members may only have blank cartridges or shells in personal possession;
    - (iii) a person authorized to enforce the provisions of this Chapter on official business;
    - (iv) an employee of the Band or the Commission on official business;

- (v) a person authorized by the Band or the Commission to conduct a game census;
- (vi) if the Commissioner specifically permits a member to use or possess a light for shining wild animals during these times;
- (vii) a member engaged in hunting authorized by § 5059 of the Chapter; or
- (viii) a member engaged in fishing authorized by § 5166 of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.14.

#### **§ 4035. Duties on Accidental Shooting.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.15.

#### **§ 4036. Failure to Report Hunting Accident.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.16.

#### **§ 4037. Hunter Education Requirements and Restrictions on Hunting by Members Under 14 Years of Age.**

(a)

- (1) **Certificate of Accomplishment Required.** Except as provided in subparagraph (2), no member born on or after January 1, 1977 may hunt while possessing a firearm, bow and arrow or crossbow unless the member has been issued a certificate of accomplishment under a Band hunter education and firearm safety course.
- (2) **Exceptions.** A member may hunt while possessing a firearm, bow and arrow or crossbow without having been issued a certificate of accomplishment from a Band hunter education and firearm safety course when:
  - (3) 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
  - (4) the member has successfully completed basic training in the U.S. Armed Forces, Reserves or National Guard.

(b) **Additional Restrictions on Hunting by Members Under 14 Years of Age.**

- (1) **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.
- (2) **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.
- (3) **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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.17.

#### **§ 4038. Hunting While Intoxicated.**

- (a) No member shall hunt with a firearm, bow and arrow or crossbow while under the influence of an intoxicant or controlled substance to a degree that the member is incapable of safely using such weapon, or while a member has a blood alcohol

concentration of 0.1% or more by weight of alcohol in the member's blood or 0.1 grams or more of alcohol in 200 liters of that person's breath.

- (b) A member hunting with a firearm, bow and arrow, or crossbow shall take or submit to a blood or breath test to determine the amount (if any) of intoxicant or controlled substance present if:
  - (1) the member has been lawfully issued a citation for violating § 4038(a);
  - (2) the member has been involved while hunting in an accident resulting in property damage, personal injury, or death;
  - (3) the member has refused to take a preliminary screening breath test; or
  - (4) a preliminary screening breath test was administered and indicated an alcohol concentration of 0.1% or more.
- (c) If a member refuses to take a test required under § 4038(b), the Band shall impose a civil penalty of \$500 and prohibit the member from hunting for one year.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.18.

#### **§ 4039. Resisting Conservation Wardens.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.19.

#### **§ 4040. False Impersonation of Warden.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.20.

**§ 4041. General Restrictions on Hunting.**

- (a) No member shall hunt on private lands unless those lands are open to the general public for hunting by operation of state law.
- (b) **Color of Clothing.** No member shall hunt any wild animal except waterfowl unless at least 50% of the member's outer clothing above the waist is of a highly visible color commonly referred to as hunter orange, blaze orange, fluorescent orange, flame orange, or fluorescent blaze orange while hunting in a state hunting zone during the annual state firearm (not muzzle-loader) deer season, including any extension thereof, for that zone.
- (c) **Transportation of Firearms, Bows and Crossbows.**
  - (1) 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.
  - (2) 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.
- (d) **Discharging Firearms and Bows and Arrows.**
  - (1) **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.
- (2) **Restrictions related to motor vehicles.** A member may not take a wild animal with a firearm or bow or crossbow from a motor vehicle except that a member may do so from a stationary vehicle which is parked off of and more than 66 feet from the center of an improved two-lane highway, and 122 feet from the center of a four-lane highway, or as permitted in §§ 4041(d)(3) or (4) or 5205(b)(5) of this Chapter.
- (3) **Hunting from vehicle by disabled hunters.** The Department of Natural Resources may issue a special permit to discharge a firearm or bow or crossbow from a stationary motor vehicle within a roadway other than a state or federal highway to a member who is temporarily or permanently physically unable to walk without crutches, braces, or other mechanical support, or who has a physical disability which substantially limits the person's ability to walk. The holder of such a permit must shoot away from and not across the roadway.
- (4) **Taking bounty animals from airplanes and snowmobiles.** The Department of Natural Resources may issue a special permit, without fee, to take animals that the State pays a bounty for, from an airplane or a snowmobile.
- (e) **Restrictions on Use of Bait.**
  - (1) No member shall place, use or hunt over bait containing or contained within metal, plastic, glass, wood or non-degradable materials.
  - (2) No member shall place or hunt over bait or liquid scent within one hundred fifty (150) yards of any campsite used by the public.
  - (3) No member shall use uncured swine products or honey for bait.
  - (4) No member shall use any bait to hunt deer or bear unless the member places a non-degradable identification tag indicating the member's tribal affiliation and tribal identification number on the tree nearest the bait, at eye level, and directly facing the bait.
  - (5) This section shall not prohibit hunting over bait materials deposited by natural vegetation or found solely as a result of normal agricultural practices.

#### Historical and Statutory Notes

Source:

Band Ordinance 07-97, § 3.21.

**§ 4042. Use of Motor Vehicles to Chase Wild Animals Prohibited.**

Except as permitted in § 4041(d), no member shall use a motor vehicle to intentionally drive, chase, run over, kill or take a wild animal.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.21(A).

**§ 4043. Hunting with Aircraft Prohibited.**

Except as permitted in § 4041(d)(4), 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.22.

**§ 4044. 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.23.

**§ 4045. 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.24.

**§ 4046. Endangered and Threatened Species Protected.**

- (a) No member shall take, transport, possess, process or sell any endangered and threatened species as defined in § 4011(g), except when:
  - (1) the member has received a permit from the Federal or State government or the Commissioner to do so;
  - (2) it is necessary to prevent injury to human life; or
  - (3) the circumstances set forth in MR 6212.2200 are present.
- (b) 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 Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.25.

**§ 4047. Records of Commercial Transactions Required.**

- (a) Except for subsistence uses or as otherwise provided in this Chapter, no member shall sell any wild animal or wild plant, the harvest of which is regulated by this Chapter, 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.
- (b) Records maintained pursuant to the requirement of paragraph (a), shall be forwarded monthly to the Department of Natural Resources, or its designee.
- (c) No member shall fail to comply with the reporting requirements of paragraph (b).

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.26.

**§ 4048. Special Use Areas.**

- (a) The Commissioner is authorized to identify special use areas in the Minnesota Ceded Territory, including, but not limited to designated muskie waters, designated experimental waters, fish rearing ponds, forests, forest campgrounds and day use areas, game refuges, northern pike spawning areas, parks, public water access sites, scientific and natural areas, trails, trout streams, and wildlife management areas.
- (b) The Commissioner, with the approval of a majority of the Bands, may close or prescribe other restrictions on hunting, fishing, gathering and other activities by Band members in special use areas identified pursuant to paragraph (a).
- (c) No member shall fail to comply with the closures and other restrictions established by the documents adopted pursuant to paragraph (b).

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.27.

**§ 4049. Unprotected Species.**

Except as otherwise expressly provided, nothing in this Chapter shall be construed to prohibit or regulate a member's harvest of any unprotected species, as defined in § 4011(t), in the Minnesota Ceded Territory.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.28.

**§ 4050. Protected Species.**

No member shall hunt, fish, trap or gather any of the following species: paddlefish, spoonbill catfish, wolverine, flying squirrel, timber wolf, cougar, elk, homing pigeon or any wild bird, except those species whose harvest is specifically regulated pursuant to the provisions of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.29.

**§ 4051. Permissible Conduct/Assistance by Non-Members.**

- (a) Conduct which is not expressly prohibited, restricted or otherwise regulated by this Chapter shall be deemed permissible.
- (b) Except as provided in paragraph (c) or as otherwise provided herein, nothing in this Chapter shall be construed to prohibit a member from hunting, fishing, trapping or gathering with any other person who is not a member of the Band, provided that such other person possesses a license or is otherwise not prohibited from engaging in the activity involved and complies with applicable laws.
- (c)
  - (1) No member shall allow any person who is not a member of the Band to assist, and no such person shall assist, in the activities authorized by this Chapter except in accordance with the provisions of this subsection or as provided in paragraph (b), above.
  - (2) Except as provided in paragraph (b), those persons who may assist a member shall be limited to the member's immediate family, including grandparents, parents, children, spouses and siblings.
  - (3) A member may be assisted by a non-member in accordance with this paragraph (b) only if the member is physically present during the activity which constitutes assistance.
  - (4) 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 Chapter, all

activities except the actual use of a device to kill an animal or the specific act which reduces an animal to possession.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.30.

#### **§ 4052. Emergency Closures.**

- (a) Notwithstanding any other provisions of this Chapter, 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.
- (b) 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.
- (c) 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.
- (d) No member shall violate the terms, conditions, or restrictions of an emergency closure order issued pursuant to this section.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.31.

#### **§ 4053. Management Units.**

The Commissioner is authorized to establish and modify management units for any species in order to fulfill the purposes of this Chapter, consistent with the final decree in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.32.

#### **§ 4054. Registration Stations.**

For the purposes of this Chapter, a Band registration station may include Minnesota Department of Natural Resources field stations or offices as may be designated from time to time by the Department of Natural Resources.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.33.

#### **§ 4055. Transfers.**

- (a) Except as otherwise provided in this Chapter, a member may transfer any wild animal lawfully harvested under this Chapter to another person, provided that the transferor of any wild animal the harvest of which is regulated under this Chapter must prepare a receipt containing the following information and give it to the recipient at the time of the transfer:
  - (1) name and address of transferor;
  - (2) name and address of recipient;
  - (3) date of transfer;
  - (4) description of item(s) transferred, including species and number; and
  - (5) permit number under which the animal was taken or, if acquired by the transferor other than by taking, a description of how the animal was acquired.
- (b) A member who is a recipient of a transfer of any wild animal, the harvest of which is regulated under this Chapter, may possess such animal only if he or she receives a receipt from the transferor in accordance with paragraph (1) and retains possession of the receipt.
- (c) A receipt need not be prepared or retained if the transferor and the recipient are members of the same household and the transferred animal is stored in that household.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.34.

#### **§ 4056. Removal of Signs.**

No member shall remove or deface a Minnesota Department of Natural Resources sign without approval of the Minnesota Commissioner of Natural Resources. No member shall remove or deface a sign belonging to any of the Bands or the Commission without approval of the appropriate Band or the Commission.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.35.

#### **§ 4057. Hunter, Trapper, and Angler Harassment Prohibited.**

- (a) 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.
- (b) 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.
- (c) A member who has intent to violate paragraph (a) or (b) may not enter or remain on public lands, or on private lands without permission of the owner.
- (d) A member must obey an order to stop the harassing conduct that violates this section from a person authorized to enforce this Chapter 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.36.

#### **§ 4058. Fishing and Motorboats Prohibited in Certain Areas.**

- (a) Except when fishing with a permit issued under Subchapter 9 of this Chapter, 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.
- (b) An owner of riparian land adjacent to a posted area referred to in paragraph (a) may operate a motorboat through the area by the shortest direct route at a speed of not more than five miles per hour.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 3.37.

#### **§ 4059. 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 Subchapter 9 of this Chapter.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 3.38.

#### **§ 4060. Training Dogs.**

- (a) A member may not train hunting dogs afield from April 16 to July 14 except by special permit. The Department of Natural Resources may issue a special permit to train hunting dogs afield on land owned by the trainer or on land that the owner provides written permission. The written permission must be carried in personal possession of the trainer while training the dogs.
- (b) A member training a dog afield and carrying a firearm may only have blank cartridges and shells in personal possession when the season is not open for any game bird, except as provided in paragraph (c).
- (c) The Department of Natural Resources may issue special permits to members to use firearms and live ammunition on domesticated birds or banded game birds from game farms for holding field trials and training hunting dogs.
- (d) The Department of Natural Resources may issue special permits to possess one raccoon to train dogs for raccoon hunting.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 3.39.

#### **§ 4061. Permits to Take Animals Causing Damage.**

The Commissioner may issue special permits on such terms and conditions as he deems necessary or appropriate to take wild animals that are damaging or about to damage property owned by the Band or by a Band member. The permit shall require the member to report whether the animal was killed.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 3.40.

## **SUBCHAPTER 4**

### **ENFORCEMENT**

#### **Section**

- 4081. Hearings in Band Court.**
- 4082. Enforcement by Deputized Conservation Wardens.**
- 4083. Enforcement by Minnesota Department of Natural Resources Conservation Officers.**
- 4084. Search and Seizure; When Authorized.**
- 4085. Investigations and Citations.**
- 4086. Registration Information.**
- 4087. Penalties.**
- 4088. Enhancement of Forfeiture and Penalties.**
- 4089. Civil Damages.**
- 4090. Seized Wild Animals and Wild Plants.**
- 4091. Schedule of Money Penalties; No Contest.**
- 4092. Collection of Money Penalties.**
- 4093. Parties to a Violation.**
- 4094. Hunting after Revocation or Suspension.**

#### **§ 4081. Hearings in Band Court.**

Jurisdiction over all matters arising under this Chapter shall be with the Band court, which shall adjudicate in accordance with the Band and applicable Federal Law, all questions, complaints and alleged violations involving the provisions of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.01.

#### **§ 4082. Enforcement by Deputized Conservation Wardens.**

Any provision of this Chapter may be enforced by wardens of the Bands or the Commission. Said wardens are hereby deputized by the Band as Natural Resources Enforcement Officers for the purpose of enforcing this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.02.

#### **§ 4083. Enforcement by Minnesota Department of Natural Resources Conservation Officers.**

Minnesota Department of Natural Resources Conservation Officers are hereby empowered to enforce the provisions of this Chapter except on trust lands and to institute proceedings in the Band court by use of citation forms of that Department or to refer the matter to appropriate Band or Commission wardens or the Band prosecutor for further investigation or action.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.03.

#### **§ 4084. Search and Seizure; When Authorized.**

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

- (a) With consent;
- (b) Pursuant to valid search warrant issued by the Band court;
- (c) With the authority and within the scope of a right of lawful inspection as provided in § 4085(a)(1);
- (d) Incident to the issuance of a lawfully issued citation under this Chapter; or
- (e) As otherwise authorized by law or by the provisions of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.04.

**§ 4085. Investigations and Citations.**

- (a) Any person authorized to enforce the provisions of this Chapter may
  - (1) Subject to paragraph (b), 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 Chapter, and of records of commercial transactions required under § 4047 of this Chapter which have not yet been forwarded to the Department of Natural Resources, or its designee;
  - (2) Execute and serve warrants and other process issued by the Band court in accordance with applicable law;
  - (3) Stop and board any boat and stop any automobile or other vehicle pursuant to paragraph (a)(1) or if the person reasonably suspects there is a violation or breach of this Chapter;
  - (4) 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 paragraph (1)(a);
  - (5) 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 Chapter upon reasonable belief that such person has violated or breached a provision of this Chapter; and
  - (6) Seize and hold subject to the order of the Band court any alleged contraband or property which such person reasonably believes may be needed as evidence in connection with the institution of proceedings in Band court or any property otherwise authorized to be seized by the provisions of this Chapter.
- (b) The inspections authorized by paragraph (a)(1) shall be conducted in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.05.

**§ 4086. Registration Information.**

A person authorized to enforce this Chapter is empowered to request and receive from Band tag and permit issuance stations and harvest registration stations information regarding tag and permit issuance and harvest registration.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.07.

#### **§ 4087. Penalties.**

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

- (a) For all violations for which no other amount is specified, a civil remedial forfeiture of not more than \$5,000.00;
- (b) For any violation, a revocation or suspension of hunting, fishing or gathering privileges for a period of time within the discretion of the court;
- (c) For any violation, a civil remedial forfeiture of any property, including boats, motors, vehicles, hunting or fishing equipment, or other property, used in the commission of the violation of this Chapter;
- (d) For all violations, the court may order a natural resources assessment not to exceed 75% of the amount of the civil remedial forfeiture; and
- (e) For all violations, appropriate court costs within the discretion of the court.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.08.

#### **§ 4088. Enhancement of Forfeiture and Penalties.**

Upon conviction of any member for a violation of this Chapter when such person has been convicted of a previous violation of this Chapter within a period of one year, the court may enhance any civil remedial forfeiture or other penalty as the court deems appropriate.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.09.

#### **§ 4089. Civil Damages.**

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

- (a) Any endangered and threatened species protected under this Chapter, \$875.00.
- (b) Any fisher, marten, prairie chicken, sand hill crane, or raptor, \$262.50.
- (c) Any deer, moose, elk or bear, \$175.00.
- (d) Any bobcat, cougar, fox, beaver, badger or otter, \$87.50.
- (e) Any coyote, raccoon or mink, \$43.75.
- (f) Any sharptail grouse, ruffed grouse, spruce grouse, wild duck, coot, wild goose or brant, \$26.25.
- (g) Any pheasant, Hungarian partridge, bobwhite, quail, rail, Wilson's snipe, woodcock or shorebird, or protected song bird or harmless bird, \$17.50.
- (h) Any muskrat, rabbit or squirrel, \$8.75.
- (i) Any muskellunge or rock or lake sturgeon, \$43.75.
- (j) Any largemouth or smallmouth bass, \$26.25.
- (k) Any brook, rainbow, brown, or steelhead trout, \$26.25.
- (l) Any walleye, northern pike, or any other game fish not mentioned in pars. (9) to (11), \$28.75.
- (m) Any wild animal or wild plant not mentioned in paragraphs (b) to (h), \$17.50.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.10.

#### **§ 4090. Seized Wild Animals and Wild Plants.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.11.

#### **§ 4091. 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 Chapter has occurred, or a plea of no contest, which may be done either in person or in writing. This schedule shall not bind the Court as to forfeitures assessed by the Court after adjudicating a violation where the defendant has entered a plea of not guilty.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.12.

#### **§ 4092. Collection of Money Penalties.**

Enforcement of the money penalties imposed pursuant to this Chapter may be had through the collection of penalties from funds of the violator held by the Band, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.13.

#### **§ 4093. Parties to a Violation.**

- (a) Whoever is concerned in the commission of a violation of this Chapter shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the member who directly committed it has not been convicted of the violation.
- (b) A member is concerned in the commission of the violation if the member:
  - (1) directly commits the violation;
  - (2) aids or abets the commission of the violation; or

- (3) is a party to a conspiracy with another to commit, or advises, hires, counsels or otherwise procures another to commit, the violation.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.14.

**§ 4094. Harvesting After Revocation or Suspension.**

No person whose hunting, fishing or gathering privileges have been revoked or suspended pursuant to § 4087(b) of this Chapter shall hunt, fish, trap or gather any wild plant or wild animal, the harvest of which is regulated by this Chapter, during such revocation or suspension.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 4.15.

**SUBCHAPTER 5**

**WILD RICE HARVESTING REGULATIONS**

**Section**

- 5011. Band Wild Rice Authority**
- 5012. Permit Required**
- 5013. Sale of Wild Rice Authorized**
- 5014. Allowable Methods.**
- 5015. Boats.**
- 5016. Open Season.**
- 5017. Hours.**
- 5018. Harvest Monitoring.**
- 5019. Harvest by Authorizes Officials.**
- 5020. Assistance by Non-Members.**

**§ 5011. Band Wild Rice Authority.**

- (a) **Recognition.** There hereby is recognized the Mille Lacs Wild Rice Authority which shall have the powers and duties enumerated in this subchapter.
- (b) **Definition.** As used in this subchapter, the "Mille Lacs Wild Rice Authority" shall mean the individuals named by the Department of Natural Resources of the Mille Lacs Band to act in the manner of the traditional Band members for the purposes of

implementing the provisions of this subchapter and of regulating the harvest and conservation of wild rice.

- (c) **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.
- (d) **Sufficient Notice of Opening Dates.** The posting of an open date for harvesting wild rice pursuant to paragraph (c) shall be deemed sufficient notice of such opening date and no other publication thereof is required.
- (e) **Consultation Required.** In exercising its powers and duties under paragraph (c), 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.01.

#### **§ 5012. Permit Required.**

No member shall harvest or gather wild rice pursuant to this Chapter 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.02.

#### **§ 5013. Sale of Wild Rice Authorized.**

- (a) Nothing in this Chapter shall be construed to prohibit members from selling wild rice legally harvested pursuant to this Chapter.
- (b) A member who sells wild rice harvested under this Chapter to non-members shall comply with the following labeling requirements:

- (1) Wild rice containing a portion of wild rice that is cultivated and offered for wholesale or retail sale must be plainly and conspicuously labeled as either "paddy" or as "cultivated" in letters of a size and form prescribed by the Commissioner.
  - (2) 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 labeled as "100 percent naturally grown, lake and river wild rice" in letters of a size and form prescribed by the Commissioner. A package of wild rice labeled "100 percent naturally grown, lake and river wild rice" must also contain the license number issued under M.S. 84.152 of the last licensed dealer, if any, who handled the wild rice.
  - (3) A package that does not contain 100 percent natural lake or river wild rice may not contain a label authorized under paragraph (2).
  - (4) A package containing a portion of 100 percent naturally grown lake and river wild rice that is harvested by use of mechanical harvesting devices and that is offered for sale at wholesale or retail must be plainly and conspicuously labeled as "machine harvested" in letters of a size and form prescribed by the Commissioner. In addition, the letters "machine harvested" must be placed near the product's identity on the label. Packages containing 100 percent hand-harvested wild rice may be labeled as "hand harvested."
  - (5) A package of cultivated or natural lake or river wild rice offered for sale at wholesale or retail in this state must specify the place of origin of the wild rice by a plain and conspicuous label placed near the product's identity on the label in letters of a size and form prescribed by the Commissioner. Only packages containing cultivated or natural lake or river wild rice that is 100 percent grown in Minnesota may be labeled as "grown in Minnesota."
  - (6) A wild rice label that implies the wild rice is harvested or processed by Chippewas is misbranded unless the package contains only 100 percent natural lake or river wild rice harvested by Chippewas.
  - (7) This section does not apply to cultivated or natural lake or river wild rice sold at wholesale or retail outside Minnesota.
- (c) The provisions of § 4047 [Records of Commercial Transactions Required] of this Chapter shall not apply to a member who sells less than 500 pounds of wild rice in Minnesota in a calendar year. For members who sell more than 500 pounds of wild rice in Minnesota in a calendar year, the records under § 4047 of this Chapter shall include, in addition to those specified in that section:

- (1) for members selling or offering for sale wild rice at retail, an invoice indicating the name of the product, amount and date of purchase, and name, address, zip code and telephone number of the supplier; and
- (2) for members not selling or offering for sale wild rice at retail, an identification of the place of origin of the wild rice, the lot numbers of the wild rice bought and sold in each transaction, and documents that track the rice by lot number through processing and assignment of a final lot number on the finished product.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.03.

#### **§ 5014. Allowable Methods.**

- (a) No member shall harvest or gather wild rice by the use of any method other than smooth, rounded cedar rods or sticks not more than 32 inches in length and which are held and operated by hand.
- (b) No member shall bind or otherwise bundle together any wild rice stalks, or harvest or gather any wild rice, the stalks of which have been bound or otherwise bundled together, except by special permit issued by the Commissioner.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.04.

#### **§ 5015. 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.05.

#### **§ 5016. 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 § 5011(c) of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.06.

**§ 5017. Hours.**

No member shall harvest or gather wild rice between sunset and the following 9:00 a.m., Central Time.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.08.

**§ 5018. 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.09.

**§ 5019. 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 5.10.

**§ 5020. 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 Chapter except as provided in § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 5.12.

## SUBCHAPTER 6

### DEER HARVESTING REGULATIONS

**Section**

- 5041. Definitions.**
- 5042. Open and Closed Season.**
- 5043. Number of Antlerless Deer Available for Harvest.**
- 5044. Deer Hunting Permits/Tags.**
- 5045. General Deer Registration Provisions.**
- 5046. Deer Seasons; Specific Regulations.**
- 5047. Permissible Methods.**
- 5048. Firearms Restrictions.**
- 5049. Bow/Crossbow Restrictions.**
- 5050. Group Deer Hunting.**
- 5051. Hunting Hours.**
- 5052. Transportation.**
- 5053. Hunting on Certain Public Lands Prohibited.**
- 5054. Hunting on Certain Private Lands Prohibited.**
- 5055. Sale of Deer and Deer Parts.**
- 5056. Sale of Deer Meat to Members.**
- 5057. Level 1 Commercial Harvest Established and Regulated.**
- 5058. Level 2 Commercial Harvest Established and Regulated.**
- 5059. Shining Deer.**
- 5060. Authorization for Closure.**
- 5061. Removal and Retention of Tags.**
- 5062. Assistance by Non-Members.**
- 5063. Moose.**

**§ 5041. Definitions.**

For the purposes of this Chapter, the following terms shall be construed as follows:

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

- (b) **"Bow"** means any hunting instrument designed for the purpose of propelling arrows which is drawn and held by and through the efforts of the person firing it, but does not include a crossbow.
- (c) **"Crossbow"** means any device using a bow which, once drawn, is held solely by means other than the effort of the person firing it.
- (d) **"Firearm"** means a rifle, muzzleloader, shotgun, handgun or other type of gun.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.01.

**§ 5042. Open and Closed Season.**

- (a) A closed season is hereby established for the hunting of deer except for the open seasons specified in § 5046 of this Chapter.
- (b) Except as otherwise expressly provided by this Chapter, no member shall hunt deer in the Minnesota Ceded Territory during the closed season.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.02.

**§ 5043. Number of Antlerless Deer Available for Harvest.**

- (a) The number of antlerless deer which shall be available for harvest in each deer management unit pursuant to this Chapter 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 State Department of Natural Resources regarding the total harvestable surplus within the management unit, and in accordance with the provisions in the final decree in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226 (D. Minn.), regarding deer management. For the purposes of this Chapter, this number shall be termed the treaty quota.
- (b) No member shall hunt antlerless deer in any deer management unit in which a treaty quota has not been established pursuant to paragraph (a) or which has been closed to further antlerless deer hunting pursuant to § 5060 of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.03.

**§ 5044. Deer Hunting Permits/Tags.**

- (a) No member shall hunt deer pursuant to this Chapter without possessing a valid deer hunting permit issued by the Department of Natural Resources.
- (b)
  - (1) No member shall hunt deer without possessing a valid carcass tag issued by the Department of Natural Resources, except as provided in § 5050 [Group Deer Hunting] of this Chapter.
  - (2) The Department of Natural Resources shall issue no more than two (2) carcass tags at a time to a member.
- (c) 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 § 5050 [Group Deer Hunting] of this Chapter.
- (d) No antlerless deer permit shall be valid for any deer management unit:
  - (1) which is shown to be closed on the permit;
  - (2) for which the permit is marked as invalid; or
  - (3) 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.
- (e) 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 § 5045(e), the carcass tag must be affixed to the head.
- (f) 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.
- (g)
  - (1) Except as otherwise provided in this Chapter, 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.

- (2) 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 § 5046 of this Chapter; and
  - (ii) a permit may be issued no more than 24 hours prior to the start of the State deer season.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.05.

#### **§ 5045. General Deer Registration Provisions.**

- (a) A member who has killed a deer pursuant to this Chapter, or, in the instance of group hunting [§ 5050 of this Chapter], whose carcass tag has been affixed to the deer, shall register the deer by presenting it to a registration station operated by one of the Bands no later than 5:00 p.m. of the first working day after the killing.
- (b) Upon registering a deer pursuant to this section, the registering official shall affix a registration tag and duly record in an appropriate manner all information required to be provided by the member at the time of registration.
- (c) A member registering an antlerless deer shall surrender his or her antlerless deer permit upon registration of the deer.
- (d) A member registering a deer shall provide the registering official with the following information: the sex (male or female) and the age (adult or fawn) of the deer, the management unit and county where the deer was taken, the date when the deer was taken, the Band identification number of the member taking the deer and any other relevant information requested by the registering official.
- (e) No member shall register a deer except by presenting the head or the whole carcass to the registering official.
- (f) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.
- (g) An officer of one of the Bands or Commission warden authorized pursuant to § 4082 of this Chapter to enforce the provisions of this Chapter is authorized to register deer in the field provided such warden transmits all registering information to a registration station operated by one of the Bands no later than the registration deadline established by paragraph (a), above.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 6.06.

#### § 5046. Deer Seasons; Specific Regulations.

- (a) All dates given in this section are inclusive.
- (b) **Closed Season.** Except as provided in § 4004 [Religious or Ceremonial Use of Natural Resources] of this Chapter, no member shall hunt deer from January 1 to Labor Day.
- (c) **Regular Season.**
  - (1) An annual regular firearm, bow and crossbow season is hereby established for antlered deer beginning on the day after Labor Day and ending on December 31.
  - (2) An annual regular firearm, bow and crossbow season is hereby established for antlerless deer beginning on the day after Labor Day, and ending on December 31.
- (d) **State Season.** No member shall hunt in a State hunting zone without complying with the provisions of § 4041(b) of this Chapter concerning the wearing of blaze orange color during the annual state firearm (not muzzle-loader) deer season, including any extension thereof, for that zone.
- (e) No member shall take deer with the aid of dogs.
- (f) **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 § 4152 [Emergency Closure] of this Chapter.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 6.07.

#### § 5047. 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 Chapter.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 6.08.

**§ 5048. Firearms Restrictions.**

No member shall hunt deer:

- (a) With a .22 rimfire rifle, 5 mm rimfire rifle, or .17 caliber centerfire rifle;
- (b) With any handgun except a handgun which is loaded with .357, .41 or .44 magnum caliber ammunition;
- (c) With a smooth-bore muzzle-loader less than .45 caliber or a rifled muzzleloader less than .40 caliber;
- (d) With a projectile other than one with a soft point or which is an expanding bullet type;
- (e) With any shell, cartridge or ammunition known as tracer shells, or with incendiary shells or cartridges (NOTE: Distress flares are exempt from this Section);
- (f) With shot shells containing shot size less than 12 gauge "OO" buckshot;
- (g) 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
- (h) With a silencer for a firearm or firearm equipped to have a silencer attached.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 6.09.

**§ 5049. Bow/Crossbow Restrictions.**

No member shall hunt deer:

- (a) With a bow having a pull of less than 30 pounds or using an arrowhead other than one that has a minimum of two metal cutting edges, is of a barbless broadhead design and has a diameter of at least seven-eighths inch. Nonretractable arrowheads are barbless

if the trailing edge of the blade creates a 90 degree or greater angle with the shaft of the arrow. Retractable broadheads may be used if they meet the following criteria:

- (1) they are at least seven-eighths of an inch in width and no more than two inches in width at or after impact with a big game animal; and
  - (2) they are a barbless design and function in a barbless manner. Retractable arrowheads are a barbless design if the trailing edge of each blade creates a 90 degree or greater angle with the shaft when the blades are fully retracted. Retractable arrowheads function in a barbless manner if, when withdrawn from a big game animal, the blades retract so that the trailing edge of each blade is at a 90 degree or greater angle to the arrow shaft.
- (b) With a crossbow unless the crossbow:
- (1) is fired from the shoulder;
  - (2) has a minimum draw weight of 100 pounds;
  - (3) has a stock of not less than 30 continuing inches in length;
  - (4) has a working safety; and
  - (5) is used with arrows or bolts of not less than 14 inches with a broadhead.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.10.

#### **§ 5050. Group Deer Hunting.**

- (a) As used in this section:
- (1) **"Contact"** means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.
  - (2) **"Group deer hunting party"** means 2 or more persons lawfully hunting deer in a group.
- (b) Any member of a group deer hunting party may kill a deer for another member of the group deer hunting party if both of the following conditions exist:
- (1) 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.

- (2) 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.
- (c) A member who kills a deer under paragraph (b) 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.11.

**§ 5051. Hunting Hours.**

Except as provided in § 5059 [Shining Deer] of this Chapter no member shall hunt deer except during the following hours: One-half hour before sunrise to one-half hour after sunset.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.12.

**§ 5052. Transportation.**

All deer must be transported in such a manner that inspection by registration agents or conservation officers is readily accomplished.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.13.

**§ 5053. Hunting on Certain Public Lands Prohibited.**

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

- (a) Designated public campgrounds, public beaches, public picnic areas, and public water access sites.
- (b) Public land within incorporated areas except:
  - (1) bow and gun hunting is permitted on lands which are designated for bow and gun hunting; and

- (2) bow hunting is permitted on lands which are designated for bow hunting.
- (c) All parks identified by Commissioner's Order under § 4048 of this Chapter except:
  - (1) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or
  - (2) 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.
- (d) All wildlife refuges, scientific and natural areas, and other closed or restricted areas as established pursuant to § 4048 of this Chapter, except as hunting is permitted by the Commissioner in those areas.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.14.

**§ 5054. Hunting on Certain Private Lands Prohibited.**

As provided in § 4041(a) of this Chapter, no member shall hunt deer on any privately owned land except those lands which are open to the general public for hunting by operation of state law.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.15.

**§ 5055. Sale of Deer and Deer Parts.**

- (a) **Head, Skin and Hooves.** Nothing in this Chapter shall be construed to prohibit any member from selling to any person the head, skin and hooves, when severed from the rest of the carcass, of any deer lawfully killed pursuant to this Chapter.
- (b) **Meat.** No member shall sell the meat of any deer killed pursuant to this Chapter, except in accordance with the provisions of §§ 5056, 5057 and 5058 of this Chapter, and if sold for human consumption the provisions of federal law applicable to the sale of meat for human consumption.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.16.

**§ 5056. Sale of Deer Meat to Members.**

- (a) **Purpose.** The purpose of this section is to regulate the sale of deer meat to members where subsequent sale or resale of the meat to non-members is prohibited. Nothing in this Chapter shall be construed to limit the number of deer, or parts thereof, which may be sold to such members pursuant to this section.
- (b) **Sale to Members.** Any member who has lawfully harvested and registered a deer pursuant to this Chapter may sell the carcass, or any part thereof, of the deer to any other member provided no member who receives a carcass or any part thereof pursuant to this paragraph shall sell the carcass or part thereof to any person who is not a member.
- (c) **Sale to Members of Other Bands.** Any member who has lawfully harvested and registered a deer pursuant to this Chapter may sell the carcass, or any part thereof, of the deer to a member of one of the other Bands, provided that such other Band prohibits its member who receives a carcass or any part thereof pursuant to this subsection from selling the carcass or part thereof to any person who is not a member of one of the Bands.
- (d) **General Permit/Registration Provisions Unaffected.** The provisions of § 5044 [Deer Hunting Permits/Tags], and of § 5045 [General Deer Registration Provisions] of this Chapter are not affected by the provisions of this Section.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.17.

**§ 5057. Level 1 Commercial Harvest Established and Regulated.**

- (a) **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 Chapter when subsequent sale or resale of the meat to non-members is contemplated.
- (b) **Effective Date.**
  - (1) 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.

- (2) 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 paragraph (1).
- (c) **Level 1 Commercial Harvest Generally.** A member who, between July 1 and June 30, has lawfully harvested deer pursuant to this Chapter 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:
  - (1) complies with the level 1 commercial harvest provisions of this Section;
  - (2) complies with the terms and conditions of the Band's enabling resolution enacted pursuant to paragraph (b)(1); and
  - (3) otherwise complies with the provisions of this Chapter applicable to deer hunting.
- (d) **Antlered Deer Level 1 Commercial Harvest.**
  - (1) A member may register pursuant to this paragraph (d) an antlered deer lawfully harvested in any deer management unit.
  - (2) When registering an antlered deer under this paragraph (d), a member shall present the entire deer carcass for registration and no registering official shall register a deer under this paragraph (d) unless the entire carcass is presented for registration.
  - (3) A member may register an antlered deer under this paragraph (d) at any registration station operated by one of the Bands or with any person authorized to register deer in the field at which time the registering official shall affix a level 1 commercial harvest registration tag to the carcass.
  - (4) This paragraph (d) is not intended to limit a member's ability to otherwise register an antlered deer under the provisions of § 5045 [General Deer Registration Provisions] of this Chapter for noncommercial purposes but only shall serve to condition the harvest and limit the number of antlered deer which the member may register under this subsection.
  - (5) Except as modified by the provisions of this paragraph (d), the provisions of § 5044 [Deer Hunting Permits/Tags] and § 5045 [General Deer Registration Provisions] of this Chapter shall apply to members desiring to register antlered deer under this paragraph (d).
- (e) Antlerless Deer Level 1 Commercial Harvest.

- (1) A member may register pursuant to this paragraph (e) a lawfully harvested antlerless deer provided the provisions of this paragraph (e) have been complied with.
  - (2) When registering an antlerless deer under this paragraph (e), a member shall present the entire deer carcass for registration and no registering official shall register an antlerless deer under this paragraph (e) unless the entire carcass is presented for registration.
  - (3) A member desiring to register an antlerless deer under this paragraph (e) for level 1 commercial purposes must obtain a level 1 commercial antlerless deer permit in accordance with the provisions of § 5044 [Deer Hunting Permits/Tags] of this Chapter provided:
    - (i) The permit may be valid at any given time for only one level 1 antlerless deer commercial harvest zone, which shall be designated by the Commissioner;
    - (ii) The permit is valid for those deer management units within the level 1 antlerless deer commercial harvest zone which are open to hunting antlerless deer.
  - (4) A member desiring to register an antlerless deer under this paragraph (e) for level 1 commercial purposes must register the antlerless deer within and prior to leaving the antlerless deer commercial harvest zone for which an antlerless permit is valid at a registration station operated by one of the Bands or with a person authorized to register deer in the field.
  - (5) Upon registration, the registering official shall affix a level 1 commercial harvest registration tag to the carcass.
  - (6) This paragraph (e) is not intended to limit a member's ability to otherwise register an antlerless deer under the provisions of § 5045 [General Deer Registration Provisions] of this Chapter for noncommercial purposes but only shall serve to condition the harvest and limit the number of deer which such member may register under this paragraph (e).
  - (7) Except as modified by the provisions of this paragraph (e), the provisions of § 5044 [Deer Hunting Permits/Tags] and § 5045 [General Deer Registration Provisions] of this Chapter shall apply to members desiring to register an antlerless deer under this paragraph (e).
- (f) **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.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.18.

### **§ 5058. Level 2 Commercial Harvest Established and Regulated.**

- (a) **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 Chapter where subsequent sale or resale of the meat of more than 10 deer to nonmembers is contemplated.
- (b) **Effective Date.**
  - (1) 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.
  - (2) 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 paragraph (1).
- (c) **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:
  - (1) complies with level 2 commercial harvest provisions of this section;
  - (2) complies with the terms and conditions of the Band's enabling resolution enacted pursuant to paragraph (b)(1); and
  - (3) otherwise complies with the provisions of this Chapter applicable to deer hunting.
- (d) **Level 2 Commercial Harvest Permit Application.**
  - (1) Any member who possesses a valid deer hunting permit may apply on such forms as the Band may prescribe to the Department of Natural Resources for an additional permit authorizing the harvest of deer for level 2 commercial purposes.

- (2) The Department of Natural Resources shall grant or deny the application, and shall notify the applicant as soon as practicable of its decision.
  - (3) A decision to grant the application may impose conditions upon a Level 2 Commercial Harvest Permit which are more restrictive than the conditions imposed by this section.
- (e) **Terms and Conditions of a Level 2 Commercial Harvest Permit.** A Level 2 Commercial Harvest Permit:
- (1) may authorize a member or group of members to harvest no more than the number of antlerless deer which remain available for harvest from the treaty quota in any one deer management unit;
  - (2) shall restrict the member's hunting of deer pursuant to the permit to only one deer management unit at any given time;
  - (3) shall require the permittee to register all deer harvested pursuant to the permit at a registration station operated by one of the Bands located within the management unit for which the permit is valid or within an adjoining unit provided the deer is transported directly to a registration station in that adjoining unit on federal or state highways; and
  - (4) shall require that all members named on the permit possess an official copy of the permit and at least one valid carcass tag while hunting pursuant to the permit.
- (f) **Registration of Entire Carcass Required.** When registering a deer under a Level 2 Commercial Harvest Permit, a member shall present the entire deer carcass for registration to an authorized registering official and no registering official shall register a deer under this section unless the entire carcass is presented for registration.
- (g) **Registration Tag Required.** Upon registration, the registering official shall affix a level 2 commercial harvest registration tag to the carcass.
- (h) **General Tagging and Registration Requirements Unaffected.** Except as modified by the provisions of this section, the provisions of § 5044 [Deer Hunting Permits/Tags] and of § 5045 [General Deer Registration Provisions] of this Chapter shall apply to members hunting pursuant to a Level 2 Commercial Harvest Permit.
- (i) **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.

#### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 6.19.

**§ 5059. Shining Deer.**

- (a) 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.
- (b) No member shall hunt or shine deer under this section unless in possession of a permit issued under paragraph (a). 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 paragraph (a), as well as all other provisions of this Chapter regulating hunting, unless expressly provided otherwise in this section.
- (c) Before issuing a permit under paragraph (a), the Commissioner shall at a minimum provide for:
  - (1) the prior inspection and selection of an appropriate site; and
  - (2) the advance notification of appropriate federal, state and local officials and nearby landowners.
- (d) For purposes of this section, an "elevated position" shall mean a position that is a minimum of ten (10) feet above the ground in the area comprising a fifty (50) yard radius from the elevated position, and that is within seventeen (17) yards of an area where bait is placed to attract deer. No member hunting or shining deer under this section shall:
  - (1) hunt or shine deer except from an elevated position;
  - (2) discharge a firearm except from an elevated position;
  - (3) possess a loaded firearm except while occupying an elevated position;
  - (4) use any artificial light except a self-contained, battery-operated flashlight containing 5 "D" batteries and a krypton bulb;
  - (5) place more than one bait at the location to be hunted;
  - (6) hunt with the aid of bait larger than sixteen (16) square feet or more than four (4) feet in length on any side;

- (7) shoot at a deer unless it is at the bait location;
  - (8) hunt deer with a firearm having an affixed scope; or
  - (9) discharge a firearm except while illuminating a deer.
- (e) A member hunting deer under this section may pursue and take a deer wounded by the member while shooting from an elevated position, provided that the wounded deer may not be dispatched with a firearm prior to one-half hour before sunrise.
- (f) A permit may be issued under this section only to members who have completed an advanced hunter safety course and received marksmanship training and a marksmanship rating.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.20.

#### **§ 5060. Authorization for Closure.**

The Commissioner or his or her designee shall close any deer management unit to antlerless deer hunting prior to the season's closing date if there is no treaty quota remaining in that unit or when it appears imminent that more than the treaty quota for that unit will be harvested prior to the expiration of the next permit period.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.21.

#### **§ 5061. Removal and Retention of Tags.**

- (a) No member who kills a deer pursuant to this Chapter shall remove a carcass or registration tag from that deer until such time as the carcass is butchered.
- (b) No member who kills a deer pursuant to this Chapter shall dispose of the registration tag until the meat is consumed, except in accordance with the provisions of §§ 5057(f) and 5058(i) [Transfer of Tags Upon Sale] of this Chapter.
- (c) Any person who receives any meat as a gift or pursuant to § 5056 [Sale to Members] of this Chapter from a member who retains a registration tag under this section is not required to possess a registration tag.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.22.

**§ 5062. 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 Chapter except as provided in § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.23.

**§ 5063. Moose.**

Any member lawfully hunting deer under this Chapter 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 this Subchapter 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 6.24.

**SUBCHAPTER 7**

**BEAR HARVESTING REGULATIONS**

**Section**

- 5081. Definitions.**
- 5082. Open and Closed Season.**
- 5083. Hunting During Closes Season Prohibited.**
- 5084. Number of Bear Available for Harvest.**
- 5085. Bear Season; Specific Regulations.**
- 5086. Bear Hunting Permits/Tags.**
- 5087. Bear Registrations.**
- 5088. Skinning/Preservation Intact.**
- 5089. Permissible Methods.**

- 5090. Firearms Restrictions.**
- 5091. Bow and Crossbow Restrictions.**
- 5092. Group Bear Hunting.**
- 5093. Hunting wit Non-Members.**
- 5094. Hunting Hours.**
- 5095. Transportation.**
- 5096. Hunting on Certain Public Land Prohibited.**
- 5097. Hunting on Certain Private Lands Prohibited.**
- 5098. Hunting Bear with Dogs.**
- 5099. Dens.**
- 5100. Landfills.**
- 5101. Cubs.**
- 5102. Removal and Retention of Tags.**
- 5103. Sales of Bear and Bear Parts.**
- 5104. Commercial Harvest Regulated.**
- 5105. Baiting of Bear.**
- 5106. Shining.**
- 5107. Authorization of Closure.**

**§ 5081. Definitions.**

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

- (a) **"Bow"** shall have the meaning provided in § 5041(b) of this Chapter.
- (b) **"Crossbow"** shall have the meaning provided in § 5041(c) of this Chapter.
- (c) **"Firearm"** shall have the meaning provided in § 5041(d).

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.01.

**§ 5082. Open and Closed Season.**

A closed season is hereby established for the hunting of bear except for the open season specified in § 5085 of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.02.

**§ 5083. Hunting During Closed Season Prohibited.**

Except as otherwise expressly provided by this Chapter, no member shall hunt bear in the Minnesota Ceded Territory during the closed season.

#### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 7.03.

#### § 5084. Number of Bear Available for Harvest.

- (a) The number of bear which shall be available for harvest in each bear management zone pursuant to this Chapter 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 in the zone, 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 bear management. For purposes of this Chapter, this number shall be termed the treaty quota.
- (b) No member shall hunt bear in any bear management zone in which no bear have been made available for treaty harvest pursuant to paragraph (a) or which has been closed to further bear hunting pursuant to § 5107 of this Chapter.

#### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 7.05.

#### § 5085. Bear Season; Specific Regulations.

- (a) All dates given in this section are inclusive.
- (b) **Closed Season.** No member shall hunt bear from November 16 through Labor Day.
- (c) **Bow, Crossbow and Firearm Season.** An annual firearm, bow and crossbow season is hereby established commencing on the day after Labor Day and extending to November 15.
- (d) Nothing in this section shall be construed to authorize bear hunting or the opening of a bear hunting season contrary to an Emergency Closure Order issued pursuant to § 4152 [Emergency Closure] of this Chapter

#### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 7.06.

**§ 5086. Bear Hunting Permits/Tags.**

- (a) No member shall hunt bear pursuant to this Chapter without possessing a valid bear hunting permit.
- (b)
  - (1) Except as provided in § 5092 [Group Bear Hunting] of this Chapter, no member shall take a bear without possessing a bear carcass tag valid for the bear management zone in which the bear is shot.
  - (2) The Department of Natural Resources shall issue no more than 1 carcass tag at a time to a member.
- (c) No member shall move a bear before affixing to it a valid carcass tag.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.07.

**§ 5087. Bear Registration.**

- (a) A member who has killed a bear pursuant to this Chapter, or, in the instance of group hunting [§ 5092 of this Chapter], 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.
- (b) 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.
- (c) 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.
- (d) A member registering a bear shall upon request submit biological samples to the Commission according to the instructions of the Commission.
- (e) 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.

- (f) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.
- (g) An officer of one of the Bands or Commission warden authorized pursuant to § 4082 of this Chapter to enforce the provisions of this Chapter 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.08.

#### **§ 5088. 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.09.

#### **§ 5089. 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 Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.10.

#### **§ 5090. Firearms Restrictions.**

No member shall hunt bear with a .22 caliber rifle, any firearm the use of which is prohibited pursuant to § 5048 of this Chapter for hunting deer, while possessing more than one handgun, or with the use of buckshot.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.11.

**§ 5091. Bow and Crossbow Restrictions.**

No member shall hunt bear:

- (a) With a bow having a pull of less than 40 pounds or using an arrowhead other than one that has a minimum of two metal cutting edges, is of barbless broadhead design, and has a diameter of at least seven-eighths inch. Non-retractable arrowheads are barbless if the trailing edge of the blade creates a 90 degree or greater angle with the shaft of the arrow. Retractable broadheads may be used if they meet the following criteria:
  - (1) they are at least seven-eighths of an inch in width and no more than two inches in width at or after impact with a big game animal; and
  - (2) they are a barbless design and function in a barbless manner. Retractable arrowheads are a barbless design if the trailing edge of each blade creates a 90 degree or greater angle with the shaft when the blades are fully retracted. Retractable arrowheads function in a barbless manner if, when withdrawn from a big game animal, the blades retract so that the trailing edge of each blade is at a 90 degree or greater angle to the arrow shaft.
- (b) With a crossbow not in compliance with the provisions of § 5049(b) of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.12.

**§ 5092. Group Bear Hunting.**

- (a) As used in this section:
  - (1) **"Contact"** means visual or voice contact without the aid of any mechanical or electronic amplifying device other than a hearing aid.
  - (2) **"Group bear hunting party"** means 2 or more members lawfully hunting bear in a group all using firearms.
- (b) Any member of a group bear hunting party may kill a bear for another member of the group bear hunting party if both of the following conditions exist:
  - (1) At the time and place of the kill, the member who kills the bear is in contact with the person for whom the bear is killed.

- (2) The member for whom the bear is killed possesses a current unused bear carcass tag valid for the bear management zone in which the bear is killed.
- (c) A member who kills a bear under paragraph (b) shall ensure that a member of his or her group bear hunting party without delay attaches a bear carcass tag to the bear prior to moving or field dressing it. No member who kills a bear while group hunting shall leave the bear unattended until after it is properly tagged.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.13.

#### **§ 5093. Hunting with Non-Members.**

Except as provided in § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter, 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 Chapter 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.14.

#### **§ 5094. Hunting Hours.**

No member shall hunt bear except during the hours established for hunting deer in § 5051 of this Chapter, provided that a bear may be taken while hunting for deer as authorized by § 5059 of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.15.

#### **§ 5095. Transportation.**

All bears shall be transported in such a manner that inspection by registration agents or conservation officers is readily accomplished.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.16.

**§ 5096. Hunting on Certain Public Lands Prohibited.**

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

- (a) Designated public campgrounds, public beaches, public picnic areas, and public water access sites.
- (b) Public lands within incorporated areas except
  - (1) bow and gun hunting is permitted on lands which are designated for bow and gun hunting; and
  - (2) bow hunting is permitted on lands which are designated for bow hunting.
- (c) All parks identified by Commissioner's Order under § 4048 of this Chapter except:
  - (1) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or
  - (2) 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.
- (d) All wildlife refuges, scientific and natural areas, and other closed or restricted areas as established by § 4048 of this Chapter, except as hunting is permitted by the Commissioner in those areas.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.17.

**§ 5097. Hunting on Certain Private Lands Prohibited.**

As provided in § 4041(a) of this Chapter, no member shall hunt bear on any privately owned land except those lands which are open to the general public for hunting by operation of state law.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.18.

**§ 5098. Hunting Bear with Dogs.**

No member shall hunt bear with dogs.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.19.

**§ 5099. Dens.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.20.

**§ 5100. Landfills.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.21.

**§ 5101. Cubs.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.22.

**§ 5102. Removal and Retention of Tags.**

- (a) No member who kills a bear pursuant to this Chapter shall remove a registration tag from the carcass until such time as the carcass is butchered or when the bear is prepared by a taxidermist.
- (b) No member who kills a bear pursuant to this Chapter shall dispose of the registration tag until the meat is consumed.
- (c) Any person who receives any bear meat as a gift or pursuant to § 5103(b)(1) or (2) [Sale to Members] of this Chapter from a member who retains a registration tag under this section is not required to possess a registration tag.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.23.

#### **§ 5103. Sale of Bear and Bear Parts.**

- (a) **Head, skin, teeth, claws and paws.** A member who has lawfully harvested and registered a bear pursuant to this Chapter may sell to another person the head, skin, teeth, or claws, whether attached to or separate from the carcass. The skin may contain the attached paws when sold.
- (b) **Meat.** No member shall sell the meat of any bear killed pursuant to this Chapter, except in compliance with the following provisions and if sold for human consumption with the provisions of federal law applicable to the sale of meat for human consumption:
  - (1) **Sale to Members.** Any member who has lawfully harvested and registered a bear pursuant to this Chapter may sell the meat of any carcass, or any part thereof, of the bear to any other member provided no member who receives the meat pursuant to this paragraph (b) shall sell such meat to any person who is not a member.
  - (2) **Sale to Members of Other Bands.** Any member who has lawfully harvested and registered a bear pursuant to this Chapter 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 paragraph (b) from selling the meat to any person who is not a member of one of the Bands.
  - (3) **Sale to Non-members.** A member who has lawfully harvested and registered a bear pursuant to this Chapter 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 § 5104 of this Chapter; and
- (ii) otherwise complies with the provisions of this Chapter applicable to bear hunting.

(c) **Paws and Internal Organs.**

- (1) **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 Chapter.
- (2) **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 Chapter 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 Chapter 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.
- (3) **Sale to the Band.** Any member who has lawfully harvested and registered a bear pursuant to this Chapter 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 paragraph (4) below; and
  - (ii) the member complies with the commercial harvest provisions of § 5104 of this Chapter.
- (4) The Band may purchase or otherwise obtain from a member who has lawfully harvested and registered a bear pursuant to this Chapter any paw which has been severed from the skin or any internal organ of the bear and may sell such part to any person provided:
  - (i) the Band maintains a record of all such transactions, including the name of the member, the name and address of the subsequent purchaser, the carcass tag and registration tag numbers of the bear which was lawfully harvested and the part or parts involved in the transaction;
  - (ii) a bill of sale or other similar document indicating the date of the transaction, the parties to the transaction, and the part or parts involved in the transaction; and

- (iii) the sale is restricted to the exporting of such part outside the United States.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 7.24.

### § 5104. Commercial Harvest Regulated.

- (a) **Purpose.** The purpose of this section is to establish the regulations governing the harvest and registration of bear the meat of which, and the teeth, claws, paws or viscera when severed from the carcass of which, may be sold pursuant to this Chapter when subsequent sale or resale of the meat or such parts to non-members is contemplated.
- (b) **Effective Date.**
  - (1) 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.
  - (2) No member shall sell any meat or sell any tooth, claw, paw or organ when severed from the carcass pursuant to this section prior to the effective date as declared by the governing body of the Band in accordance with paragraph (1).
- (c) **Commercial Harvest Permit Application.**
  - (1) Any member who or a group of members which possesses a valid bear hunting permit may apply on such forms as the Band may prescribe to the Department of Natural Resources for an additional permit authorizing the harvest of bear for commercial purposes on the terms and conditions prescribed by this section.
  - (2) The Department of Natural Resources shall grant or deny the application, and shall notify the applicant as soon as practicable of its decision.
  - (3) 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.
- (d) **Terms and Conditions of a Commercial Harvest Permit.** A Commercial Harvest Permit:
  - (1) may authorize the permittee to harvest no more than the number of bear available for harvest in any one bear management zone;

- (2) shall restrict the permittee's hunting of bear pursuant to the permit to only one bear management zone at any given time;
  - (3) 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
  - (4) 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.
- (e) **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.
- (f) **Registration Tag Required.** Upon registration, the registering official shall affix a commercial harvest registration tag to the carcass.
- (g) **General Tagging and Registration Requirements Unaffected.** Except as modified by the provisions of this section, the provisions of § 5086 [Bear Hunting Permits/Tags] and 5087 [Bear Registration] of this Chapter shall apply to members hunting pursuant to a Commercial Harvest Permit.
- (h) **Transfer of Entire Carcass Required.**
- (1) No member shall sell to any person who is not a member any bear registered under this section without transferring the entire carcass of such bear, except for the head, skin and viscera, the registration tag, and such accompanying documents as the Department of Natural Resources may require to the person to whom such bear is sold.
    - (i) No member shall sell to any person who is not a member the head or skin of any bear registered under this section without transferring the entire skin with the head, claws and teeth attached, the registration tag if it has not been or will not be transferred pursuant to paragraph (1), and such accompanying documents as the Band may require to the person to whom the skin is sold. If the registration tag is not available for transfer under this subsection because of transfer pursuant to paragraph (1), the member shall transfer a document indicating the carcass tag and registration tag numbers of the bear from which the skin has been removed.

- (ii) No member shall sell to the Band pursuant to § 5103(c)(3) of this Chapter any organ of any bear registered under this section without transferring to the Band the information and documents required in §5103(c)(4) of this Chapter

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.25.

**§ 5105. Baiting of Bear.**

A bear may be taken by the use of bait in compliance with § 4041(f) of this Chapter, provided that no member shall establish, service or maintain any bear bait station prior to the Friday nearest August 14.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.26.

**§ 5106. Shining.**

No member shall hunt bear while shining, as defined in § 4034 of this Chapter, except that during the open bear season established by § 5085 [Bear Season; Specific Regulations] of this Chapter a bear may be taken while hunting from a deer shining stand as authorized by § 5059 of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.27.

**§ 5107. Authorization for Closure.**

The Commissioner or his or her designee shall close any bear management zone to bear hunting prior to the season's closing date if no bear remain available for harvest under this Chapter in that zone.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 7.28.

## SUBCHAPTER 8

### SMALL GAME HARVESTING REGULATIONS

#### Section

- 5121. Purpose.
- 5122. Definitions.
- 5123. Open and Closed Seasons.
- 5124. Hunting/Trapping During Closed Season Prohibited.
- 5125. Small Game Quotas.
- 5126. Small Game Harvest Permits/Tags.
- 5127. Otter, Bobcat and Fisher Registration.
- 5128. Small Game Seasons; Specific Regulations.
- 5129. Hunting Hours.
- 5130. Hunting and Trapping on Certain Public Lands Prohibited.
- 5131. Hunting and Trapping on Certain Private Lands Prohibited.
- 5132. Small Game Hunting Prohibited Methods.
- 5133. Shining Raccoon, Fox or Unprotected Species.
- 5134. Identification of Traps Required.
- 5135. Specific Trapping Regulations.
- 5136. Specific Snaring Regulations.
- 5137. Possession and Sale of Live Small Game Animals.
- 5138. Incidental Take.
- 5139. Shipment of Furs.
- 5140. Sale of Small Game Authorized.
- 5141. Authorization for Closure.
- 5142. Sharing of Equipment/Assisting Band Member.
- 5143. Wild Turkey Hunting Regulations.
- 5144. Small Game Hunting Caliber Restrictions.
- 5145. Taking Animals Causing Damage.

#### § 5121. Purpose.

The purpose of this Subchapter is to regulate small game hunting and trapping in the Minnesota Ceded Territory by members.

#### Historical and Statutory Notes

#### Source:

Band Ordinance 07-97, § 8.01.

#### § 5122. Definitions.

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

- (a) **"Bow"** shall have the meaning prescribed in § 5041(b) of this Chapter.
- (b) **"Crossbow"** shall have the meaning prescribed in § 5041 (c) of this Chapter.
- (c) **"Firearm"** shall have the meaning prescribed in § 5041(d) of this Chapter.
- (d) **"Hunt"** or **"Hunting"** shall have the meaning prescribed in § 4011(k) of this Chapter but shall not include trapping for the purposes of this Subchapter.
- (e) **"Trap"**, in addition to the meaning prescribed in § 4011(s) of this Chapter, means to trap or snare.
- (f) **"Unprotected Species"** means:
  - (1) Opossum, Coyotes (brush wolves), skunk, weasel, woodchuck, gophers, and porcupines;
  - (2) Starlings, English sparrows, Common pigeons, coturnix quail, chukar partridge, monk parakeet and rock doves; and
  - (3) All other unprotected species as defined in § 4011(t) of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.02.

#### **§ 5123. Open and Closed Seasons.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.03.

#### **§ 5124. Hunting/Trapping During Closed Season Prohibited.**

Except as otherwise expressly provided in this Chapter, no member shall hunt or trap small game in the Minnesota Ceded Territory during the closed season.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.04.

**§ 5125. Small Game Quotas.**

The number of otter, bobcat, marten, lynx or fisher which shall be available for harvest pursuant to this Chapter 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 Chapter, this number shall be termed the treaty quota.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.06.

**§ 5126. Small Game Harvest Permits/Tags.**

(a)

- (1) No member shall hunt small game pursuant to this Chapter without possessing a valid small game hunting permit.
- (2) No member shall hunt bobcat without possessing a valid carcass tag.

(b)

- (1) No member shall trap small game pursuant to this Chapter without possessing a valid small game trapping permit.
- (2) No member shall trap otter, bobcat or fisher without possessing a valid carcass tag.

(c) Except as provided in § 5137 [Possession and Sale of Live Small Game Animals] of this Chapter, no member shall move or field dress an otter, bobcat, marten, lynx or fisher before affixing to it a valid carcass tag.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.07.

**§ 5127. Otter, Bobcat and Fisher Registration.**

- (a) A member killing an otter, bobcat or fisher pursuant to this Chapter shall register the animal by presenting it to a registration station operated by one of the Bands no later than 5:00 p.m. of the first working day after killing if the animal was hunted or after retrieval if the animal was trapped.
- (b) Upon registering an otter, bobcat or fisher pursuant to this section, the registering official shall affix a registration tag and shall duly record in an appropriate manner all information required to be provided by the member at the time of registration.
- (c) A member registering an otter, bobcat or fisher shall provide the registering official with the following information: the sex of the animal taken, the deer management unit and county where the animal was taken, the date when the animal was taken, the Band identification number of the member taking the animal and any other relevant information requested by the registering official.
- (d) No member shall register an otter, bobcat or fisher except by presenting the whole carcass to the registering official, or in the alternative, by providing the whole skin to the registering official provided the carcass tag is attached to the skin.
- (e) No member shall provide information to the registering official which the member knows, or has reason to know, is false or misleading.
- (f) An officer of one of the Bands or Commission warden authorized pursuant to § 4082 of this Chapter to enforce the provisions of this Chapter 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 paragraph (a), above.
- (g) 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.08.

**§ 5128. Small Game Seasons; Specific Regulations.**

- (a) Annual small game trapping seasons for the time periods provided in paragraph (b)(2) and annual small game hunting seasons for the time periods provided in paragraph (c)(2) are hereby established.

(b)

- (1) 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.
- (2) The small game trapping season for all species listed in paragraph (c)(2) 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 sharptailed grouse.

(c)

- (1) For the purposes of small game hunting, seasons begin and end in accordance with the applicable hunting hours prescribed in § 5129 of this Chapter.
- (2) Specific small game hunting seasons (all dates are inclusive):
  - (i) **Badger:** Day after Labor Day – March
  - (ii) **Bobcat:** October 1 - March 31
  - (iii) **Beaver:** Year Around
  - (iv) **Bobwhite Quail:** Day after Labor Day – March 31
  - (v) **Coyote:** Year Around
  - (vi) **Cottontail Rabbit:** Year Around
  - (vii) **Fisher:** No Open Hunting Season
  - (viii) **Hungarian Partridge:** Day after Labor Day – March 31
  - (ix) **Lynx:** No Open Season
  - (x) **Marten:** No Open Season
  - (xi) **Minx:** October 1 - March 31
  - (xii) **Muskrat:** October 1 - March 31
  - (xiii) **Otter:** No Open Hunting Season
  - (xiv) **Pheasant:** Day after Labor Day – December 31

- (xv) **Raccoon:** Year Around
- (xvi) **Red Fox:** Year Around
- (xvii) **Gray Fox:** Day after Labor Day – March 31
- (xviii) **Red, Gray, and Fox Squirrel:** Year Around
- (xix) **Ruffed Grouse:** Day after Labor Day – March 31
- (xx) **Sharp-Tailed Grouse:** Day after Labor Day – January 31
- (xxi) **Snowshoe Hare:** Year Around
- (xxii) **Unprotected Species:** Year Around

(3) The daily bag limit for each species will be established annually by the Bands, in accordance with the provisions in the final decree in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226 (D. Minn.), regarding small game management.

(d) Nothing in this section shall be construed to authorize small game hunting or trapping or the opening of a small game hunting or trapping season for a particular species contrary to an Emergency Closure Order issued pursuant to § 4152 [Emergency Closure] of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.09.

#### **§ 5129. Hunting Hours.**

- (a) Except where otherwise expressly authorized by this Chapter, no member shall hunt small game except during the hours prescribed by this section.
- (b) Lawful small game hunting hours during open seasons are provided as follows:
  - (1) For all small game animals except fox, raccoon and unprotected species one half hour before sunrise to one half hour after sunset.
  - (2) For fox, raccoon, and unprotected species, 24 hours per day except during the state deer season described in § 5046(d) of this Chapter when small game hunting hours shall be the same as deer hunting hours under this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.10.

**§ 5130. 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:

- (a) Designated public campgrounds, public beaches, public picnic areas, and public water access sites.
- (b) Public lands within incorporated areas except for those lands which are designated for small game hunting or trapping.
- (c) All parks identified by Commissioner's order under § 4048 of this Chapter except:
  - (1) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or
  - (2) 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.
- (d) All wildlife refuges, scientific and natural areas, and other closed or restricted areas established pursuant to § 4048 of this Chapter, except as small game hunting or trapping is permitted by the Commissioner in these areas.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.11.

**§ 5131. Hunting and Trapping on Certain Private Lands Prohibited.**

As provided in § 4041(a) of this Chapter, 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.12.

**§ 5132. Small Game Hunting Prohibited Methods.**

While hunting small game, no member shall:

- (a) Use or possess any device designed or used for the purpose of driving rabbits out of their holes or dens;
- (b) Use or possess any ferret;
- (c) Molest the nest or den of any squirrel; or
- (d) Use smoke, fire or mechanical devices (including dragging a rope, wire or other device across a field) to take small game.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.15.

**§ 5133. Shining Raccoon, Fox or Unprotected Species.**

- (a) No member shall hunt raccoon, fox or any unprotected species while shining as defined in § 4034 of this Chapter except:
  - (1) While hunting on foot during the open season for the animal hunted, a member may possess or use a flashlight at the point of kill; or
  - (2) While on foot training a dog to hunt or track raccoon, fox or any unprotected species, a member may possess or use a flashlight, provided the member may only have blank cartridges or shells in personal possession.
- (b) No member shall hunt raccoon, fox or any unprotected species while shining during the State deer season described in § 5046(d) of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.16.

**§ 5134. Identification of Traps Required.**

- (a) No member shall trap pursuant to this Chapter without affixing to each trap or snare a metal tag upon which shall be stamped or engraved the trapper's legible name and address and initials designated by the Department of Natural Resources indicating membership in the Band.

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.17.

#### **§ 5135. Specific Trapping Regulations.**

- (a) 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:

- (i) 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.
  - (ii) Within 3 feet of any woven or welded wire mesh type fence.
  - (iii) Within 100 yards of any building devoted to human occupancy without the owner's consent.
- (12) Make an opening in a muskrat house for the purpose of trapping, or otherwise damage a muskrat house, runway or bank den, unless the opening is plugged by replacing all materials removed to prevent freezing within the structure. Traps may be set at natural entrances to muskrat runways and bank burrows.
  - (13) Damage a beaver house or dam or set a trap of any kind inside a beaver house or above the water line on the outside of a beaver house.
  - (14) Fail to check at least once each day all watersets not capable of drowning an animal and remove any animal captured.
  - (15) Except for traps set under the ice, fail to check at least once each third day all watersets capable of drowning a captured animal and remove any animal captured.
- (b) The Commissioner may by order prohibit Band members from setting out snares except where the snare loop is at least half-submerged under water in the portions of the Minnesota Ceded Territory south of a line following Highway 95 from Taylor Falls to Highway 169, Highway 169 to County Road 16, County Road 16 to County Road 32, County Road 32 to County Road 33, County Road 33 to County Road 34, and County Road 34 to the Mississippi River.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.18.

#### **§ 5136. Specific Snaring Regulations.**

- (a) No member shall trap small game by the use of a snare except in compliance with the following provisions:
  - (1) Any snare must be anchored so that it may not be dragged.
  - (2) Any snare must be tagged as in § 5134(a) of this Chapter.

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.19.

#### **§ 5137. Possession and Sale of Live Small Game Animals.**

- (a) As used in this section, the following terms shall be construed to apply as follows:
  - (1) **"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.
- (2) **"Possess"** means to own, restrain, keep in captivity or transport a small game animal.
- (b) Except as otherwise authorized by controlling law or as provided in paragraph (c), 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.
- (c) A member may control temporarily a live small game animal for one of the purposes described in paragraph (a)(1), but not for the purpose of selling the live animal.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.20.

#### **§ 5138. Incidental Take.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.21.

#### **§ 5139. Shipment of Furs.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.22.

#### **§ 5140. Sale of Small Game Authorized.**

- (a) Nothing in this Chapter shall be construed to prohibit any member from selling the carcass, or any part thereof, of any lawfully harvested small game animal to any person, provided that if a member sells meat for human consumption the member shall comply with the provisions of federal law applicable to the sale of meat for human consumption.
- (b) The provisions of § 4047 [Records of Commercial Transactions] of this Chapter shall not apply to the sale of the fur of any small game furbearing species.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.23.

#### **§ 5141. Authorization for Closure.**

The Commissioner, or his or her designee, shall close the small game hunting and trapping season for otter, bobcat or fisher if no otter, bobcat or fisher remain available for harvest under this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.24.

#### **§ 5142. Sharing of Equipment/Assisting Band Member.**

No member shall share any small game hunting or trapping equipment with or otherwise be assisted while small game hunting or trapping by any person who is not a member of one of the Bands, except as provided in § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.25.

#### **§ 5143. Wild Turkey Hunting Regulations.**

- (a) **Permit Required.** No member shall hunt wild turkeys without possessing a valid small game hunting permit issued pursuant to the provisions of this Chapter.
- (b) **Tags for Turkey Harvest Zones.** No member shall hunt wild turkeys except in a wild turkey harvest zone established by Commissioner's Order and while in

- possession of a carcass tag issued by the Department of Natural Resources valid for that zone.
- (c) **Season.** No member shall harvest any wild turkeys except during the open season which shall be established by Commissioner's Order.
  - (d) **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 paragraph (b) for that zone, and no member shall fail to affix a valid carcass tag to a turkey immediately upon reducing the turkey to possession.
  - (e) **Turkey Quotas.** The numbers of bearded and beardless turkeys that may be harvested in each wild turkey management zone under this Chapter 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 Chapter, these numbers shall be termed the treaty quotas.
  - (f) **Methods of Turkey Harvest.** No member shall hunt wild turkeys:
    - (1) 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.
    - (2) With the aid of recorded bird calls or sounds or electrically amplified imitations of bird calls or sounds.
    - (3) With the aid of dogs.
    - (4) With live decoys for the purposes of enticing wild turkeys.
  - (g) **Registration Required.**
    - (1) A member killing a wild turkey pursuant to this Chapter 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.
    - (2) 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.
    - (3) No person shall provide information to the registering official which the person knows, or has reason to know, is false or misleading.

- (4) Any officer of one of the Bands or Commission warden authorized pursuant to § 4082 of this Chapter to enforce the provisions of this Chapter is authorized to register wild turkeys in the field provided such warden provides all registering information to a Band registration station no later than 5:00 p.m. of the first working day after field registration.

(h) **Other Restrictions Applicable.**

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

(2)

- (i) No member shall hunt wild turkeys in any area designated pursuant to paragraph (2)(ii) as a wild turkey reintroduction area.
- (ii) The Commissioner, or his or her designee, is hereby authorized, to designate certain areas within the Minnesota ceded territory as wild turkey reintroduction areas in which the hunting of wild turkeys shall be prohibited.

- (i) **Authorization for Closure.** The Commissioner or his or her designee shall close any wild turkey management zone to bearded or beardless turkey hunting if no bearded or beardless turkeys remain available for harvest under this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.26.

**§ 5144. Small Game Hunting Caliber Restrictions.**

No member shall hunt any bobwhite quail, hungarian partridge, pheasant, ruffed grouse or sharp-tailed grouse with a rifle (other than a .22 caliber rifle) or a shotgun loaded with a single ball or slug or shot larger than no. BB.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.27.

**§ 5145. Taking Animals Causing Damage.**

Notwithstanding any other provision of this Chapter, a member may take mink, squirrel, rabbit, hare, raccoon, bobcat, fox, muskrat, or beaver on land owned or occupied by the member where the animal is causing damage. The member may take the animal without a license and in any manner except by poison, or artificial lights in the closed season. Raccoons may be taken under this section with artificial lights during the open season. A member that kills mink, raccoon, bobcat, fox, muskrat, or beaver under this section must bring the entire animal to a Band or Commission conservation officer within 24 hours after the animal is killed.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 8.28.

## **SUBCHAPTER 9**

### **FISH HARVESTING REGULATIONS**

**Section**

- 5161. Definitions.**
- 5162. Open and Closed Season.**
- 5163. Fish Available for Harvest.**
- 5164. Fishing Permits.**
- 5165. Seasons, Methods, Bag Limits, and Size Limits.**
- 5166. Spearing Regulated.**
- 5167. Dip Nets, Fyke Nets, and Seines Regulated.**
- 5168. Gillnets Regulated.**
- 5169. Harpooning and Archery Equipment Regulated.**
- 5170. Setlines and Set or Bank Poles Regulated.**
- 5171. Designated Landings May Be Required.**
- 5172. Reporting and Monitoring.**
- 5173. Open Water hook and Line Fishing Regulated.**
- 5174. Ice Fishing Regulated.**
- 5175. Possession Limit.**
- 5176. Lake sturgeon Tagging Required.**
- 5177. Incidental taking by Gillnet.**
- 5178. Live Bait Restrictions.**
- 5179. Carp Fingerlings.**
- 5180. Fishing in Certain Locations Prohibited or Restricted.**
- 5181. Bait Dealers regulated.**
- 5182. Commercial Harvest of Game Fish.**
- 5183. Commercial Harvest of game Fish Regulated.**
- 5184. Buying and Selling Game Fish.**
- 5185. Authorization for Closure.**
- 5186. Special Sturgeon Regulations.**

**§ 5161. Definitions.**

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

- (a) **"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.
- (b) **"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.
- (c) **"Gillnet"** means any net set to capture fish by entanglement rather than entrapment.
- (d) **"Hook and Line"** means a rod and reel or similar device including a tip up and hand held lines, and includes trolling.
- (e) **"Ice Fishing"** means fishing through an artificial hole in the ice.
- (f) **"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.
- (g) **"Open Water Fishing"** means all fishing other than fishing through an artificial hole in the ice.
- (h) **"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.
- (i) **"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 Chapter.
- (j) **"Set or Bank Pole"** means a pole used for fishing from the banks of lakes or rivers in compliance with the provisions of § 5170 of this Chapter.
- (k) **"Setline"** means a line used for fishing in compliance with the provisions of § 5170 of this Chapter.

- (l) **"Snagging"** means attempting to take or reduce a fish to possession by hooking a fish in a place other than the mouth by the use of a hook and line or any other device which is not a net or spear.
- (m) **"Troll"** means to fish from a motor-driven boat when the motor is running, from any boat in tow of a motor-driven boat when the motor is running, or from a sailboat when in motion.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.01.

#### **§ 5162. Open and Closed Season.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.02.

#### **§ 5163. Fish Available for Harvest.**

The quantity of fish available for harvest pursuant to this Chapter for each twelve-month period from April 1 through March 31 shall be limited by the management measures (including closed seasons, method restrictions, bag limits and size limits) set forth herein and by any quotas established under § 5165(e) of this Chapter. All management measures and quotas shall be consistent with the court's opinions, orders and decrees in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226 (D. Minn.).

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.03.

#### **§ 5164. Fishing Permits.**

- (a) No member shall fish pursuant to this Chapter without possessing a valid fishing permit. Such a permit may be the member's tribal identification card required by § 4022(2) of this Chapter.

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.04.  
 Band Resolution 10-02-17-03, Attach. A, § 2.a.

**§ 5165. Seasons, Methods, Bag Limits, and Size Limits.**

- (a) No member shall take, catch, kill or fish for any species of fish: in excess of the bag limit; by means other than those enumerated; during other than the open season; below the minimum size limit; above the maximum size limit; or in locations other than those established by this section.
- (b) With the exception of harvest methods for which no daily maximum harvest limit is established or for which such a limit is established by a special permit, the daily bag limits in paragraph (b) shall be the maximum numbers of the fish species permitted to be taken by one member in any one day by all fishing methods combined. However, nothing herein contained shall prevent the Commissioner from reducing bag limits or closing seasons for any species by Commissioner’s Order in the interests of conservation.
- (c) For the purposes of bag limits, "day" shall mean a continuous 24-hour period consistent with the nature of the harvest activity involved.
- (d) Except as provided in paragraphs (b) and (e), the following table hereby establishes the open season, permissible methods, daily bag limits and size limits for the enumerated species of fish in the identified locations.

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

**1. Largemouth and Smallmouth Bass.**

a. All waters	Open water hook and line fishing, ice fishing (including spearing when ice fishing)	Year Around	10 per person/day	None
---------------	---	-------------	-------------------	------

b.	All waters	Open water spearing subject to § 5166, and snagging	Year Around	10 per person/day except as provided otherwise in § 5166	None
c.	All waters	Setline, set or bank pole subject to § 5170	Year Around	10 per person/day	None
d.	All waters	All nets (except gillnets) subject to § 5167	Year Around	10 per person/day except as provided otherwise in § 5167	None
e.	Waters designated in § 5168 (b)	Gillnets subject to § 5168	Year Around	See § 5168	None

**2. Walleye.**

a.	All waters	Open water hook and line fishing, ice fishing (including spearing when ice fishing)	Year Around	10 per person/day	None
b.	All waters	Open water spearing subject to § 5166, and snagging	Year Around	Established by permits issued pursuant to § 5166	Maximum of 20 inches except each fisher may take one fish 20-24 inches and one fish any size per permit
c.	All waters	All nets (except gillnets) subject to § 5167	Year Around	Established by permits issued pursuant to § 5167	Identifiable males only prior to May 1. Maximum of 20 inches thereafter
d.	All waters	Setline, set or bank pole subject to § 5170	Year Around	10 per person/day	None
e.	Waters designated in § 5168 (b)	Gillnets subject to § 5168	June 1 to March 1, except Mille Lacs lake open Year Around	See § 5168	None

**3. Northern Pike.**

a.	All waters	Open water hook and line fishing, ice fishing (including spearing when ice fishing)	Year Around	10 per person/day	None
b.	All waters	Open water spearing subject to § 5166, and snagging	Year Around	10 per person/day except as provided otherwise in § 5166	None
c.	All waters	Setline, set or bank pole subject to § 5170	Year Around	10 per person/day	None
d.	All waters	All nets (except gillnets) subject to § 5167	Year Around	10 per person/day except as provided otherwise in § 5167	None
e.	Waters designated in § 5168 (b)	Gillnets subject to § 5168	June 1 to March 1	See § 5168	None

**4. Lake Sturgeon.**

a.	St. Croix River below Taylors' Falls	Open water hook and line fishing, ice fishing (including spearing when ice fishing)	June 1 to March 1 (except as provided in § 5186)	1 per person/year, all methods (except as provided in § 5186)	45 inch minimum size limit (except as provided in § 5186)
b.	St. Croix River below Taylors' Falls	Open water spearing and snagging subject to § 5166 and spearing while ice fishing	June 1 to March 1 (Except that 1 sturgeon per lake may be taken by all members during spring spearing and except as provided in § 5186)	1 per person/year, all methods (except as provided in § 5186)	45 inch minimum size limit (except as provided in 5186)

- |    |                                      |  |  |   |   |
|----|--------------------------------------|--|--|---|---|
| c. | St. Croix River below Taylors' Falls | Setline, set or bank pole subject to § 5170  | June 1 to March 1 (except as provided in § 5186) | 1 per person/year, all methods (except as provided in § 5186) | 45 inch minimum size limit (except as provided in 5186) |
| d. | St. Croix River below Taylors' Falls | All nets (except gillnets) subject to § 5167 | June 1 to March 1 (except as provided in § 5186) | 1 per person/year, all methods (except as provided in § 5186) | 45 inch minimum size limit (except as provided in 5186) |
| e. | St. Croix River below Taylors' Falls | Gillnets subject to § 5168                   | June 1 to March 1 (except as provided in § 5186) | 1 per person/year, all methods (except as provided in § 5186) | 45 inch minimum size limit (except as provided in 5186) |

**5. Muskellunge.**

- |    |                                |   |                   |  |   |
|----|--------------------------------|---|-------------------|--|---|
| a. | All waters                     | Open water hook and line fishing, ice fishing (including spearing when ice fishing) | Year Around       | 2 per person/day                                 | 40 inch minimum size limit (except no limit when ice spearing in lakes other than Mille Lacs) |
| b. | All waters                     | Open water spearing subject to § 5166; and snagging                                 | Year Around       | Established by permits issued pursuant to § 5166 | 40 inch minimum size limit (except no limit in lakes other than Mille Lacs)                   |
| c. | All waters                     | Setline, set or bank pole subject to § 5170   | Year Around       | 2 per person/day                                 | 40 inch minimum size limit  |
| d. | All waters                     | All nets (except gillnets) subject to § 5167  | Year Around       | Established by permits issued pursuant to § 5167 | 40 inch minimum size limit  |
| e. | Waters designated in § 5168(b) | Gillnets subject to § 5168  | June 1 to March 1 | See § 5168                                       | 40 inch minimum size limit  |

**6. Trout and Salmon (except Lake Trout).**

- |    |                                |               |                                       |                               |      |
|----|--------------------------------|---------------|---------------------------------------|-------------------------------|------|
| a. | All waters except spring ponds | Hook and line | January 1 to September 30             | 5 per person/day in aggregate | None |
| b. | Spring ponds                   | Hook and line | First Saturday in May to September 30 | 5 per person/day in aggregate | None |

**7. Lake Trout.**

- |    |            |   |             |                               |      |
|----|------------|---|-------------|-------------------------------|------|
| a. | All waters | Open water hook and line fishing, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to 5166 | Year Around | 5 per person/day in aggregate | None |
|----|------------|---|-------------|-------------------------------|------|

**8. White Bass, Rock Bass, Bluegill, Crappie, Pumpkinseed, Yellow Perch, Yellow Bass, Catfish.**

- |    |                                |   |             |      |      |
|----|--------------------------------|---|-------------|------|------|
| a. | All waters                     | Open water hook and line fishing, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to § 5166; setline, set or bank pole subject to § 5170; all nets (excluding gillnets) subject to § 5167 | Year Around | None | None |
| b. | Waters designated in § 5168(b) | Gillnets subject to 5168  | Year Around | None | None |

**9. Cisco and Whitefish**

- |    |            |  |             |      |      |
|----|------------|--|-------------|------|------|
| a. | All waters | Hook and line fishing, ice fishing (including spearing when ice fishing), open water spearing and snagging subject to § 5166; setline, set or bank pole subject to § 5170; all nets (excluding | Year Around | None | None |
|----|------------|--|-------------|------|------|

gillnets) subject to §  
5167

b. Waters designated in § 5168(b)	Gillnets subject to § 5168	Year Around	None	None
-----------------------------------	----------------------------	-------------	------	------

**10. Rough Fish.**

a. All waters	All methods unless otherwise specifically prohibited by this Chapter except gillnetting	Year Around	None	None
---------------	---	-------------	------	------

b. Waters designated in § 5168(b)	Gillnets subject to § 5168	Year Around	None	None
-----------------------------------	----------------------------	-------------	------	------

**11. Paddlefish or Spoonbill Catfish.**

All waters – No Open Season

(e)

- (1) The Commissioner his or her designee is hereby delegated the authority to implement a quota management system for the harvest of any species of fish by one or more methods, in accordance with the final decree in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226 (D. Minn.).
- (2) If it becomes necessary to implement a quota management system for spearing or netting for a particular species in a particular body of water:
  - (i) The Bands shall establish the treaty quota after consultation with the State Department of Natural Resources regarding the total harvestable surplus of the species, and in accordance with the provisions of the final decree in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226 (D. Minn.) regarding fisheries management.
  - (ii) The Department of Natural Resources shall issue open water spearing and netting permits for the species, which shall set forth any daily bag limits applicable to the species in accordance with §§ 5166, 5167 and 5168 of this Chapter.

- (iii) No Band member shall net or spear the species without possessing and complying with all terms of such a permit, or in excess of any applicable daily bag limit; and
- (iv) All Band harvest by spearing and netting for the species shall cease once the quota is taken.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.05.

#### **§ 5166. Spearing Regulated.**

- (a) Except while ice fishing, no member shall use or possess any spear on any body of water unless the member possesses a valid permit authorizing the use of a spear on that body of water.
- (b) The Department of Natural Resources may issue an open water spearing permit to a member provided:
  - (1) An open season exists for the species to be fished;
  - (2) The permit shall be valid for no more than 1 day for the spearing of walleye, muskellunge, sturgeon and other game fish;
  - (3) 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 § 5165(e) of this Chapter for that species;
  - (4) If a quota management system for a species has been implemented under § 5165(3) of this Chapter, 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;
  - (5) The permit designates the body of water for which the permit is valid;
  - (6) No spearing permit issued pursuant to this section and no netting permit issued pursuant to §§ 5167 or 5168 of this Chapter shall be simultaneously valid for any body of water except for Mille Lacs Lake;
  - (7) The permit requires the member's signature; and
  - (8) 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.

- (c) 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.
- (d) 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.
- (e) No member shall fish with the use of a spear which does not meet the requirements of § 5161(i) [Spear Defined] of this Chapter.
- (f) No member shall possess any fish harvesting devices other than a spear while engaged in open water spearing.
- (g) No member shall share spearing equipment with any person who is not a member of one of the Bands, except as provided in § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.
- (h) The Department of Natural Resources shall not issue a permit for spearing a particular species of fish in a particular body of water under this section if the treaty quota for that species has been taken in that body of water or if that body of water is otherwise closed to spearing.
- (i) The Department of Natural Resources shall not issue an open water spearing permit under this section for game fish unless a monitor(s) will be present at the landing(s) to monitor the spearing harvest.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.06.

#### **§ 5167. Dip Nets, Fyke Nets and Seines Regulated.**

- (a) Except while netting for minnows pursuant to § 5181(c) of this Chapter no member shall use or possess any dip net, fyke net or seine on any body of water unless the member possesses a valid permit authorizing the use of a dip net, fyke net or seine on that body of water.
- (b) The Department of Natural Resources may issue a dip netting, fyke netting or seining permit, provided:
  - (1) An open season exists for the species to be fished;

- (2) The permit shall be valid for no more than 1 day;
  - (3) 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 § 5165(e) of this Chapter for that species;
  - (4) If a quota management system for a species has been implemented under § 5165(e) of this Chapter, the respective number of netting permits issued by all Bands shall not exceed the remaining treaty quota divided by the respective daily bag limit for the species;
  - (5) Netting for all species with dip nets, fyke nets or seines is limited to one body of water for the duration of the permit;
  - (6) No netting permit issued pursuant to this section, no gillnetting permit issued pursuant to § 5168 of this Chapter and no spearing permit issued pursuant to § 5166 of this Chapter shall be simultaneously valid for any body of water except Mille Lacs Lake;
  - (7) The permit shall require that all nets authorized comply with appropriate marking and safety requirements;
  - (8) The permit requires the member's signature;
  - (9) Permits issued pursuant to § 5181 [Bait Dealers Regulated] of this Chapter shall be governed by the provisions of that section; and
  - (10) 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.
- (c) 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.
  - (d) No member shall fish with the use of a dip net, fyke net or seine which does not meet the requirements of § 5161(a) [Dip Net Defined], § 5161(b) [Fyke Net Defined], or § 5161(h) [Seine Defined] of this Chapter.
  - (e) Except while netting for minnows pursuant to § 5181 of this Chapter, no member shall possess any fish harvesting device other than a dip net, fyke net or seine while engaged in netting under this section.

- (f) 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 § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.
- (g) 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.
- (h) 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.

### **Historical and Statutory Notes**

#### **Source:**

Band Ordinance 07-97, § 9.07.

### **§ 5168. Gillnets Regulated.**

- (a) 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.
- (b) 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:
  - (1) An open season exists for the species to be fished;
  - (2) The permit shall be valid for no more than 1 day for any species of game fish;
  - (3) The permit sets forth the respective daily bag limits for all species which can be harvested with gillnets under § 5165(d) of this Chapter, and/or other management measures to control the harvest of such species or any other species that might be harvested incidentally, including without limitation restrictions on the length, depth or bar size of nets, soak times, or location of harvest, as determined by the Commissioner in accordance with the provisions in the final decree in *Mille Lacs Band v. State of Minnesota*, No. 3-94-1226 (D. Minn.), regarding fisheries management.
  - (4) Except as provided in paragraph (m), any number of permits may be issued at any one time for any lake but the total length in feet of all gillnets authorized for all permits issued by all Bands on any one lake shall not exceed the

number of walleye remaining available for harvest in that lake multiplied by 10;

- (5) Gillnetting for all species is limited to one body of water for the duration of the permit;
- (6) No gillnetting permit issued pursuant to this section, no spearing permit issued pursuant to § 5166 of this Chapter or netting permit issued pursuant to § 5167 of this Chapter shall be simultaneously valid for any body of water except Mille Lacs Lake;
- (7) The permit requires the member's signature;
- (8) Except as provided in paragraph (m), the permit shall establish the location of where the net is set and time the net shall be lifted. No permit shall be issued unless a monitor is available at the time the net is lifted.
- (9) Except as provided in Subs. (2c) and (13), the maximum length, depth and bar size of a gillnet shall be as follows:

<b>Dates</b>	<b>Maximum Allowable Length</b>	<b>Maximum Depth</b>	<b>Maximum Bar Size</b>
Year Round	100 feet	4 feet	1.75 inches

- (10) The Department of Natural Resources or the Commission may impose such other terms and conditions as it deems appropriate or necessary, including such biological monitoring requirements appropriate to the level of harvest activity on any body of water.
- (c) 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.
- (d) No member shall fish with the use of a gillnet which does not meet the requirements of § 5161(c) [Gillnet Defined] of this Chapter.
- (e) No member shall possess any fish harvesting device other than a gillnet while engaged in gillnetting under this section.
- (f) 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 § 4051 [Permissible Conduct/Assistance by Non-Member] of this Chapter.
- (g) Where an annual treaty quota for any fish species as described in § 5163 of this Chapter 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.

- (h) No member shall fish with any gillnet unless the gillnet is marked in compliance with the following provisions:
  - (1) Each gillnet shall be marked with two flags or floats, one on each end;
  - (2) Each flag pole shall be two feet or more above the water and have a diameter of two-and-one-half inches or less;
  - (3) Each flag shall be white and ten inches square or larger; or
  - (4) Each float shall be visible from shore;
  - (5) 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.
- (i) 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.
- (j) 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.
- (k) No member shall remove a gillnet from a lake without first removing from the gillnet and returning all crayfish to the water or killing all crayfish entangled in the gillnet.
- (l) Except as otherwise provided in paragraph (b)(3), no member shall fail to lift any gillnet at least two times in each continuous 24-hour period during which the net is set, or more frequently as water temperatures may require so as to avoid the spoilage of any fish taken by the net.
- (m) Notwithstanding the provisions of paragraphs (b)(4), (b)(8) and (b)(9), the Department of Natural Resources may issue a permit for gillnetting ciscos (tullibeas) on such terms and conditions as it deems necessary or appropriate, provided that at a minimum all other provisions of this section shall otherwise apply to cisco gillnetting permits.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.08.  
Band Resolution 08-01-70-98.

**§ 5169. Harpooning and Archery Equipment Regulated.**

- (a) Harpooning equipment may not be used within 1,000 feet of an established swimming beach. Harpooning equipment may be discharged only when both the equipment and the operator are entirely beneath the surface of the water and may not be carried in a cocked position while out of the water.
- (b) Archery equipment may not be used to take rough fish unless the arrows are tethered or controlled by an attached line. The use of crossbows is prohibited.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.08A.

**§ 5170. Setlines and Set or Bank Poles Regulated.**

- (a) No member shall fish with or set any setline or set or bank poles except in accordance with the following provisions:
  - (1) A maximum of 20 set or bank poles and 1 setline may be used in no more than 3 bodies of water at any one time.
  - (2) Setlines shall be marked at one end by a white flag ten inches square or larger held by a pole three feet or more above the surface of the water or bank; the pole shall not be more than two-and-one-half inches in diameter and, if a buoy is used to hold the pole, it shall be round or ovate in shape and have a diameter of fifteen inches or less; the pole shall not be placed in the main channel of any navigable waterway.
  - (3) Each set or bank pole and each setline shall have attached securely to it a legible identification tag issued by the Tribe showing the member's tribal affiliation and tribal identification number.
  - (4) Setlines or set or bank poles shall not be equipped with stainless steel hooks.
  - (5) A set or bank pole may not be equipped with more than one line which shall not have more than 2 hooks.
  - (6) A setline shall not have more than 10 hooks.
  - (7) 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.

- (8) Set or bank poles and setlines may only be set, attended or lifted from one hour before sunrise to one-half hour past sunset.
- (9) 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.
- (b) No member shall fish with any set or bank pole or setline which does not meet the requirements of § 5161(j) [Set or Bank Pole Defined] or § 5161(k) [Setline Defined] of this Chapter.
- (c) 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.
- (d) 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 § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.09.

#### **§ 5171. Designated Landings May Be Required.**

- (a) In issuing spearing or netting permits pursuant to §§ 5166, 5167 or 5168 of this Chapter, the Department of Natural Resources may require permittees to use only designated landings for entering upon and exiting from a body of water.
- (b) 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 paragraph (a).
- (c) Notwithstanding the provisions of paragraphs (a) and (b), a member may exit from a body of water at a location other than a designated landing when necessitated by weather conditions, considerations of personal safety or other appropriate circumstances.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.10.

#### **§ 5172. Reporting and Monitoring.**

- (a) No member shall fail to complete catch reports in the manner required by the Department of Natural Resources or comply with any catch monitoring requirements imposed by the Department with respect to any fishing method authorized by this Chapter.
- (b) The Department of Natural Resources shall issue no further permits under this Chapter to any member who has failed to complete and return any creel census questionnaire or other catch report required by paragraph (a).
- (c) In the event that a member fails to report or return a census questionnaire, the Department of Natural Resources shall count the total number of fish allowed by that member's permit against the treaty quota/harvest until such report or census questionnaire is completed and returned in compliance with this section.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.11.

#### **§ 5173. Open Water Hook & Line Fishing Regulated.**

- (a) Except as provided in § 5170 [Setlines and Set or Bank Poles Regulated] of this Chapter, no member shall:
  - (1) Engage in open water fishing by the use of hook and line with more than six lines with a maximum of two hooks or lures per line; or
  - (2) Engage in open water fishing by the use of any hook and line which is physically unattended for a period of more than one hour.
- (b) Any member engaged in open water fishing by use of any unattended hook and line shall attach to such line a visible identification tag issued by the member's Tribe showing the member's tribal affiliation and tribal identification number.
- (c) Nothing in this Chapter shall be construed to prohibit any member from trolling on any body of water while engaged in open water fishing by the use of hook and line.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.12.

#### **§ 5174. Ice Fishing Regulated.**

- (a) No member shall ice fish by the use of hook and line through a hole larger than 12 inches in diameter.
- (b) No member shall ice fish by the use of a spear through a hole larger than 24 inches by 36 inches.
- (c) No member shall ice fish with unattended lines.
- (d) 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.
- (e) 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 driver's license number and a durable license tag supplied by the Department of Natural Resources is clearly displayed on the outside of the house.
- (f) 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.
- (g) 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 § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.
- (h) 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.13.

#### **§ 5175. Possession Limit.**

- (a)
  - (1) Except as provided in paragraphs (c) and (d), 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.

- (2) For the purposes of this section, "**fresh**" means unspoiled and never frozen once removed from a body of water.
- (b) Except as provided in paragraphs (c) and (d), no member shall possess more than one daily bag limit of any species of fish while on any body of water or while fishing.
- (c) The possession limits of this section shall not apply to fresh walleye lawfully taken pursuant to permits issued under §§ 5166 [Spearing], 5167 [Netting] or 5168 [Gillnetting] of this Chapter when such walleye have been monitored and counted as the permittee leaves a body of water.
- (d) The possession limits of this section shall not apply to fresh fish tagged for sale pursuant to § 5183 of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.14.

**§ 5176. Lake Sturgeon Tagging Required.**

- (a) No member shall fail to register with the Department of Natural Resources any lake sturgeon harvested pursuant to this Chapter prior to 5:00 p.m. of the next working day following the harvest.
- (b) Upon registering a lake sturgeon, the registering official shall firmly affix a registration tag of the locking variety to the carcass.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.15.

**§ 5177. Incidental Take by Gillnet.**

- (a) No member shall retain possession of any species of fish for which gillnetting is not permitted or in excess of any applicable daily bag limit, if harvested in a gillnet, and no member shall fail to either:
  - (1) Return to the water any such fish which appears capable of surviving (that is, is able to maintain itself upright), provided that tullibee shall not be returned to the water and, when water temperatures are over 50 degrees, yellow perch shall not be returned to the water; or

- (2) Transfer possession of such fish as soon as practicable to the Department of Natural Resources or to a person authorized to enforce this Chapter.
- (b) Any such fish transferred pursuant to paragraph (a)(2) shall be disposed of by the Band for charitable purposes but shall not be returned to the member or his or her family, as defined in § 4011(r) of this Chapter.
- (c) Any fish take as incidental catch shall be counted toward any applicable treaty quota for that species.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.16.

**§ 5178. Live Bait Restrictions.**

- (a) No member shall use as live bait while fishing pursuant to this Chapter: carp, goldfish, redhorse, fresh water drum, burbot, bowfin, garfish, buffalo fish, lamprey, alewife, gizzard shad, smelt, goldeye, mooneye, carpsucker, quillback, ruffe, crayfish or other non-native or exotic species designated by the Commissioner.
- (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 Chapter game fish taken from another water body.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.17.

**§ 5179. 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.17A.

**§ 5180. Fishing in Certain Locations Prohibited or Restricted.**

- (a) 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.
- (b) 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 § 4048 [Wild Animal Refuges Established] of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.18.

**§ 5181. Bait Dealers Regulated.**

- (a) No member shall set, use or operate any net or other device for taking, catching or killing minnows except as provided by this section.
- (b) 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].
- (c) Any member may take or possess less than 600 minnows by the use of any net authorized by § 5167 [Dip Nets, Fyke Nets and Seines] of this Chapter without a permit provided that while netting for minnows:
  - (1) No member shall remove or destroy vegetation, logs or habitat features;
  - (2) 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
  - (3) No member shall fail to promptly return unharmed to the water all minnows not kept and all game fish caught by a net.
- (d) No member shall take or possess more than 600 minnows at any time unless the member possesses a permit issued pursuant to paragraph (e).
- (e) The Department of Natural Resources may issue a permit to a member authorizing the taking or possession at any time of more than 600 minnows on the following terms and conditions:
  - (1) A permit shall include the member's name, address and Band identification number;

- (2) A permit shall specify the waters where the permit is valid and the number of nets or other devices which may be utilized at any time;
- (3) A permit shall describe the nets or other devices authorized;
- (4) A permit shall require that minnow traps be identified in a permanent and legible manner and display the permittee's name and address. The required information must be displayed on a waterproof tag securely attached to the trap or be branded or stamped into a permanent portion of the trap. On leech traps, the required information may also be painted on the trap with oil base paint or indelible ink. Identification on non-submerged traps must be unobscured and located above the water surface;
- (5) A permit shall provide that a minnow trap, string of minnow traps, hoop net, or trap net, including the wings or leads, may not extend across more than one-half the width of any stream, nor be set within 50 feet in any direction of any portion of another person's minnow trap, hoop net or trap net, provided that an individual minnow trap may be placed within not less than 20 feet in any direction of any portion of another such trap, and individual submerged traps may be set up to four traps at one site, side by side, within 12 inches of one another;
- (6) A permit shall provide that minnow traps must be lifted and emptied of minnows and other fish as frequently as necessary to prevent the loss of minnows or other fish, provided that under no circumstances may minnow traps be emptied less frequently than once every 72 hours between April 1 and October 31 and once every seven days between November 1 and March 31. All traps must be removed from the water and shoreline immediately upon ceasing trapping operations;
- (7) A permit may be valid for no more than 12 months from the date of issuance;
- (8) A permit shall require the member to transport, handle and hold minnows in a manner which will reasonably ensure the minnows will be kept alive and healthy;
- (9) 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;
- (10) A permit shall prohibit the removal or destruction of vegetation, logs and other habitat features; and
- (11) 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.

- (f) No member shall take or attempt to take minnows contrary to the terms and conditions of any permit issued under paragraph (e).
- (g) Nothing in this Chapter 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 § 404 [Records of Commercial Transaction] of this Chapter, 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.19.

**§ 5182. Commercial Harvest of Game Fish.**

- (a)
  - (1) The provisions of this section and § 5183 of this Chapter shall not take effect until such time as the governing body of the Band specifically declares them to be effective by an enabling resolution.
  - (2) 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 paragraph (a)(1).
- (b) At such time as the provisions of this section are declared effective pursuant to paragraph (a)(1), no member shall engage in the commercial harvest of any game fish, except in accordance with the provisions of § 5183 of this Chapter and in accordance with the terms and conditions of the Band's enabling resolution.
- (c) Nothing in this Chapter 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 Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.20.

**§ 5183. Commercial Harvest of Game Fish Regulated.**

- (a) The purpose of this section is to establish the regulations governing the commercial harvest of game fish.
- (b) No member shall engage in the commercial harvest of game fish without a permit authorizing such commercial harvest and tagging all fish to be sold commercially in accordance with paragraphs (c) and (d).
- (c) The Department of Natural Resources may issue permits for the commercial harvest of game fish, which shall incorporate all provisions of this Subchapter 9, including the provisions of §§ 5166 [Spearing Regulations], 5167 [Dip Nets, Fyke nets and Seines Regulated], and 5168 [Gillnets Regulated] of this Chapter, provided that:
  - (1) the Department shall not permit the use of gillnets in any lakes other than Mille Lacs Lake from March 2 to May 31 for commercial harvests; and
  - (2) the Department may authorize the use of gillnets for commercial harvests in Mille Lacs Lake only with the following maximum length, depth and bar sizes:

<b>Dates</b>	<b>Maximum Allowable Length</b>	<b>Maximum Depth</b>	<b>Maximum Bar Size</b>
March 2 to May 31	100 feet	4 feet	1.75 inches
June 1 to March 1	300 feet	6 feet	1.75 inches

- (d) The Department of Natural Resources shall issue sequentially numbered tags after the fish are landed for all game fish to be sold commercially on the following conditions:
  - (1) Each whole game fish sold must be tagged prior to being sold;
  - (2) If filleted prior to sale, all fillets from a game fish must be tagged together or otherwise packaged together with one tag prior to sale. The tags shall be of the locking variety and designed so that when packaged together the tag cannot be used again.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.21.  
 Band Resolution 10-02-17-03, Attach. A, § 2.b.

**§ 5184. Buying and Selling Game Fish.**

- (a) Except for subsistence uses as defined in § 4011(r) of this Chapter, no member shall buy or sell game fish taken from waters in the Minnesota Ceded Territory unless such fish were taken in a commercial harvest permitted under § 5183(c) of this Chapter.
- (b) A member engaged in a business providing services to a member taking fish may not prepare dressed game fish for shipment without a fish packer's license issued by the Department of Natural Resources.
- (c) The fish packer must maintain a permanent record of:
  - (1) the name, address and license number of the shipper;
  - (2) the name and address of the consignee; and
  - (3) the number of each species and net weight of fish in the shipment.
- (d) The license and records of the fish packer must be made available to a person authorized to enforce the provisions of this Chapter upon request.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.21A.

#### **§ 5185. 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 9.23.

#### **§ 5186. Special Sturgeon Regulations.**

- (a) The regulations set forth in this Section shall supersede the season and size restrictions and the bag limits provided by § 5165(d)(4) of this Chapter.
- (b) On lakes with adequate population estimates for sturgeon which are subject to a quota management system on fish species referenced in § 5165(e) of this Chapter, 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.

### Historical and Statutory Notes

**Source:**

Band Ordinance 07-97, § 9.26.

## SUBCHAPTER 10

### MIGRATORY BIRD HARVESTING REGULATIONS

**Section**

- 5201. Definitions.**
- 5202. Closed Season.**
- 5203. Seasons and Annual Harvest Regulations.**
- 5204. Daily Bag Limits and Possession Limits.**
- 5205. Methods.**
- 5206. Shooting Hours.**
- 5207. Hunting on Certain Public Lands Prohibited.**
- 5208. Hunting on Certain Private Lands Prohibited.**
- 5209. Wanton Waste of Birds.**
- 5210. Decoys.**
- 5211. Structures.**
- 5212. Duck Blinds.**
- 5213. Possession Regulated.**
- 5214. Transportation Regulated.**
- 5215. Exportation Regulated.**
- 5216. Permit Required.**
- 5217. Closed Areas.**
- 5218. Authorization for Emergency Closure.**
- 5219. Enforcement by U.S. Fish and Wildlife Service Personnel.**
- 5220. Assistance by Non-Members.**
- 5221. Sale of Migratory Birds Parts Regulated.**

#### § 5201. Definitions

For the purposes of this Subchapter, the following terms shall be construed as follows:

- (a) **"Bag Limits"** mean:
  - (1) **"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 un-predetermined quantities to satisfy a maximum take limit.

- (2) **"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.
  - (3) **"Aggregate daily bag limit"** means the maximum number of migratory birds permitted to be taken by one member in any one day during the open season when such member hunts for more than one species for which a combined daily bag limit is prescribed.
  - (4) **"Possession limit"** means the maximum number of migratory birds of a single species or a combination of species permitted to be possessed by any one member when lawfully taken in the ceded territory.
- (b) **"Migratory Bird"** means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in 50 CFR Section 10.13, or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or in part of any part, nest or egg thereof.
- (c) **"Migratory Game Birds"** means coots, gallinules, sora and Virginia rails, American woodcock, common snipe, and migratory waterfowl.
- (d) **"Migratory Bird Preservation Facility"** means:
- (1) Any person who, at his residence or place of business and for hire or other consideration; or
  - (2) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or
  - (3) Any hunting club which, in the normal course of operations receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage, or shipment.
- (e) **"Personal abode"** means a member's principal or ordinary home or dwelling place, as distinguished from one's temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent or trailer house used as a hunting club, or any hotel, motel, or rooming house used during a hunting, pleasure or business trip.
- (f) **"Take"** means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture or collect.

- (g) **"Waterfowl"** means any migratory bird of the family Anatidae, including ducks, geese, swans, brant, and mergansers.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.01.

**§ 5202. Closed Season.**

- (a) A closed season is hereby established for the hunting of migratory birds except for the open seasons specified in § 5203 of this Chapter.
- (b) Except as otherwise expressly provided by this Chapter, no member shall take any migratory bird during the closed season for that animal.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.02.

**§ 5203. Seasons and Annual Harvest Regulations.**

- (a) 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 Chapter, as if fully set forth in their entirety herein, and shall constitute Band regulations governing member migratory bird hunting for the seasons so established.
- (b) No member shall take or possess migratory birds or otherwise engage in any activity contrary to the federal regulations incorporated into this Chapter pursuant to this section on a season-by-season basis.
- (c) Any violation of such annual federal migratory bird regulations incorporated herein shall be deemed a violation of this Chapter, and shall be subject to the jurisdiction of the Band court pursuant to the provisions of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.03.

**§ 5204. Daily Bag Limits and Possession Limits.**

- (a) 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 Subchapter.
- (b) No member shall possess migratory birds taken in excess of the possession limits for that species established by this Subchapter.
- (c) 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 Subchapter of the last migratory bird taken during that day reaches or exceeds the maximum number of points allowed for that day.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.04.

**§ 5205. Methods.**

- (a) Unless expressly modified by a U.S. Fish and Wildlife Service Final Rule incorporated into this Chapter pursuant to § 5203(a) of this Chapter, migratory birds for which open seasons are prescribed may be taken by any method except those prohibited in this section.
- (b) No member shall take migratory birds:
  - (1) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;
  - (2) With a shotgun of any description capable of holding more than five shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;
  - (3) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;
  - (4) From or by any means, aid, or use of any motor vehicle (not including a motorboat or sailboat), motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

- (5) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased: Provided, that a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power;
- (6) By the use or aid of live birds as decoys (among other things, it shall be a violation of this section for any member to take migratory waterfowl in an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl);
- (7) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;
- (8) By the aid of baiting, or on or over any baited area. As used in this subsection, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked or unshucked corn, wheat, other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this section shall prohibit:
  - (i) the taking of all migratory birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly 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.

- (9) 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;
- (10) With shot larger than size T; or
- (11) 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.05.

**§ 5206. 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 Chapter pursuant to § 5203(a) of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.06.

**§ 5207. Hunting on Certain Public Lands Prohibited.**

No member shall hunt migratory birds on any of the following lands except as noted.

- (a) Designated public campgrounds, public beaches, public picnic areas, and public water access sites.
- (b) Public lands within incorporated areas except those lands which are designated for migratory bird hunting.
- (c) All parks identified by Commissioner's order under § 4048 of this Chapter except:
  - (1) on lands held in trust for the Minnesota Chippewa Tribe, the Mille Lacs Band or its members; or
  - (2) 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.

- (d) All wildlife refuges, scientific and natural areas, and other closed or restricted areas established pursuant to § 4048 of this Chapter, except as migratory bird hunting is allowed by the Commissioner in those areas.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.06A.

#### **§ 5208. Hunting on Certain Private Lands Prohibited**

As provided in § 4041(a) of this Chapter, no member shall hunt migratory birds on any privately owned land except those lands which are open to the general public for hunting by operation of state law.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.06B.

#### **§ 5209. Wanton Waste of Migratory Birds.**

No member shall kill or cripple any migratory bird pursuant to this Chapter without making a reasonable effort to retrieve the bird, and retain it in his or her actual custody, at the place where taken or between that place and any of the following places:

- (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 by § 5201(b) of this Chapter;
- (d) A post office; or
- (e) A common carrier facility.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.07.

**§ 5210. Decoys.**

No member shall take any migratory bird with decoys which are:

- (a) Placed beyond 200 feet from the location in which the member is located;
- (b) Placed in the water prior to one hour before opening of shooting hours; or
- (c) Left in the water more than 20 minutes after the close of shooting hours.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.08.

**§ 5211. Structures.**

No member shall hunt migratory birds from any publicly owned pier, dam, dock, breakwater, or similar man-made structure where the prohibition of such hunting is clearly posted.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.09.

**§ 5212. Duck Blinds.**

No member shall establish a duck blind on public waters or public land prior to one (1) hour before the migratory bird season or leave it established beyond seven (7) days after the close of the season. No member shall leave any waterfowl hunting blind in open public waters after dark.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.10.

**§ 5213. Possession Regulated.**

- (a) **Prohibited if taken in violation of sections 5205 - 5212 of this Chapter.** 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 §§ 5205 - 5212 of this Chapter.

- (b) **During closed season.** No member shall possess any freshly killed migratory bird taken in the Minnesota Ceded Territory and during the closed season.
- (c) **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.
- (d) **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.
- (e) **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:
- (1) The member's automobile or principle means of land transportation;
  - (2) The member's personal abode or temporary or transient place of lodging;
  - (3) A migratory bird preservation facility as defined in § 10.01(3) of this Chapter;
  - (4) A post office; or
  - (5) A common carrier facility.
- (f) **Tagging requirements.** No member shall put or leave any migratory bird at any place (other than his or her personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such bird has a tag attached, signed by the member, stating his or her address, the total number and species of birds, and the date such birds were killed. Migratory birds being transported in any vehicle as the personal baggage of the processor shall not be considered as being in storage or temporary storage.
- (g) **Custody of birds of another.** No member shall receive or have in custody any migratory bird belonging to another person unless such bird has been tagged as required by paragraph (f).
- (h) **Possession of live birds.** Every migratory bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become part of the daily bag limit. No member shall at any time, or by any means, possess or transport live migratory game birds taken pursuant to this Chapter.

- (i) **Termination of possession.** Subject to all other requirements of this Subchapter, the possession of any migratory bird taken by any member shall be deemed to have ceased when such bird has been delivered by him or her to another person as a gift; or have been delivered by him or her to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the member.
- (j) **Gift of migratory bird.** No member shall receive, possess, or give to another, any freshly killed migratory birds as a gift, except at the personal abode of the donor or donee, unless such birds have a tag attached, signed by the member who took the birds, stating such member's address, the total number and species of birds and the date such birds were taken.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.11.

#### **§ 5214. Transportation Regulated.**

- (a) **Prohibited if taken in violation of sections 5205 - 5212 of this Chapter.** No member shall at any time, by any means, or in any manner, transport any migratory bird of part thereof, taken in violation of any provision of §§ 5205 - 5212 of this Chapter.
- (b) **Transportation of birds of another.** No member shall transport any migratory bird belonging to another person unless such bird is tagged as required by § 5213(f) of this Chapter.
- (c) **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 § 5201(d) of this Chapter.
- (d) **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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.12.

**§ 5215. Exportation Regulated.**

- (a) **Prohibited if taken in violation of sections 5205 - 5212 of this Chapter.** 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 §§ 5205 - 5212 of this Chapter.
- (b) **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.
- (c) **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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.13.

**§ 5216. Permit Required.**

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

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.14.

**§ 5217. 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 § 4048 of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.15.

**§ 5218. 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.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.16.

**§ 5219. Enforcement by U.S. Fish and Wildlife Service Personnel.**

Any Memorandum of Agreement or other such document by which the Band and the U.S. Fish and Wildlife Service establish the conditions upon which the Service's personnel may enforce the provisions of this Chapter is hereby incorporated into this Chapter as if set forth in its entirety herein.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.17.

**§ 5220. Assistance by Non-Members.**

No person who is not a member shall assist a member in the hunting of migratory birds pursuant to this Chapter except as provided in § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.18.

**§ 5221. Sale of Migratory Birds Parts Regulated.**

- (a) No member shall sell the meat of any migratory bird taken in the Minnesota Ceded Territory.
- (b) A member may use the feathers of migratory birds lawfully harvested under this Chapter for subsistence uses, including the making and selling of handicraft articles

as defined in § 4011(r) of this Chapter subject to the following [permit requirements to trace all feathers to be developed].

- (c) Nothing in this Chapter shall be construed to prohibit a member from selling the feathers of migratory waterfowl (ducks, geese, brant and swans) lawfully harvested pursuant to this Chapter for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses except that:
  - (1) No member shall purchase or sell, or offer to purchase or sell, for millinery or ornamental use the feathers of migratory birds taken in the Minnesota Ceded Territory (except as provided in paragraph (b)); and
  - (2) No member shall purchase or sell, or offer to purchase or sell, mounted specimens of migratory birds taken in the Minnesota Ceded Territory.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 10.19.

## **SUBCHAPTER 11**

### **AMPHIBIANS, TURTLES, MUSSELS AND CRAYFISH**

**Section**

**5241. Purpose.**

**5242. Amphibians.**

**5243. Turtles.**

**5244. Mussels.**

**5245. Crayfish.**

**§ 5241. Purpose.**

The purpose of this Subchapter is to regulate the harvest of amphibians, turtles, mussels and crayfish.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 11.01.

**§ 5242. Amphibians.**

- (a) **Season and Hours.** Frogs may be taken only between May 16 and March 31, inclusive, and between sunrise and sunset, except as otherwise permitted by the Commissioner.
- (b) **Species and Size Limits.** Only leopard frogs (*Rana pipiens*) and bull frogs (*Rana catesbiana*) more than six inches long may be taken or possessed for purposes other than bait. The length of the frog is measured from the tip of the nose to the tip of the hind toes, with the legs fully extended.
- (c) **Methods.**
  - (1) No member shall use cloth screens or similar devices to take frogs.
  - (2) 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.
- (d) **Taking, Importing, Transporting, Possessing, Buying or Selling Frogs for Purposes Other Than Bait.**
  - (1) 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.
  - (2) No member shall import live frogs into the State of Minnesota for purposes other than bait without a permit issued by the Commissioner.
  - (3) 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.
  - (4) 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 11.02.

#### **§ 5243. Turtles.**

- (a) **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

paragraph (c). 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.

(b) **Methods.**

- (1) Except as allowed in paragraph (2), no member shall take turtles by use of explosives, drugs, poisons, lime, other harmful substances, firearms, turtle hooks or traps, or nets other than nets authorized for use in harvesting fish in noncommercial fisheries.
- (2) A member possessing a turtle seller's permit issued under paragraph (c) may take turtles by means of turtle traps or hooks and other authorized commercial fishing gear.
  - (i) Flexible webbing turtle traps must be of mesh size not less than 3-1/2 inches bar measure or seven inches stretch measure.
  - (ii) Wire turtle traps must be of mesh size not less than 3-1/2 inches bar measure and must have at least four inches on a side and one of the same dimension near the bottom in each of the side panels.
  - (iii) A turtle trap must be set in water shallow enough to place the top no deeper than one inch below the water surface. Each trap must be checked and serviced at intervals not exceeding 48 hours.
  - (iv) When in use, each turtle trap must have affixed on it a tag of permanent material visible from above, legibly bearing the name, address, and permit number of the operator. This information must be recorded in an indelible manner on the tag. The tag must be of dimensions not less than 2-1/2 inches in length by five-eighths inch in width.
- (3) No member shall use artificial lights to take turtles unless in possession of a permit issued by the Department of Natural Resources authorizing the use of artificial lights to take turtles in designated waters.

(c) **Sales.** Except for subsistence uses, no member shall take, possess, transport or purchase turtles for sale without a turtle seller's permit issued by the Department of Natural Resources. A turtle seller's license is not required to buy turtles for retail sale to consumers:

- (1) at a location licensed by the state department of agriculture or health for sale or preparation of food;
- (2) of a member licensed by the state department of agriculture or health for sale or preparation of food; or

- (3) of a member buying turtles at a retail outlet.
- (d) **Records and Reports.**
  - (1) 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.
  - (2) 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 11.03.

#### **§ 5244. Mussels.**

- (a) **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.
- (b) **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.
- (c) **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 paragraph (d).
- (d) **Commercial Harvest Permits.**
  - (1) 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 § 4052 of this Chapter to protect aquatic resources.

- (2) Only three ridge (*Amblema plicata*) mussels may be harvested under a commercial harvest permit. Additional species may be requested for harvest from specific sites by special permit. Three ridge mussels may lawfully be harvested, as live whole mussels or shell halves, provided that they cannot pass through a 2-3/4 inch diameter hole. A member must return undersized three ridge mussels or unlawful mussel shells, live or dead, to the water immediately.
- (3) Harvest sites must be identified in the application and permit by legal description or other defining terms sufficient to accurately locate the area. The taking of mussels by a permittee or crew member from a place outside the permitted harvest site is prohibited.
- (4) The permittee must inform the Commissioner 24 hours in advance of any intended mussel harvest operations. Changes in location or dates will require an additional notification.
- (5) A mussel harvesting crew is limited to four persons, including the permittee. Helpers' names must be listed on the permit and must be eligible to exercise hunting, fishing and gathering rights under the 1837 treaty. The permittee must be in attendance at all mussel harvest operations.
- (6) No member shall harvest mussels within 1,000 feet downstream of a dam.

(e) **Records, Reports and Inspections.**

- (1) Notwithstanding the requirements of § 4047 of this Chapter a permittee must keep records of each mussel sales transaction. The records must be verifiable with supporting sales slips and include:
  - (i) pounds of mussels sold;
  - (ii) name and address of the buyer; and
  - (iii) date of transaction.
- (2) Records must be kept current within 48 hours of each transaction. Failure to keep complete and current records may result in immediate revocation of the permit and may render the permittee ineligible for permits for one year. All records must be maintained and available for inspection, at the permittee's address, for three years.

- (3) Notwithstanding the requirements of § 4047 of this Chapter a permittee must submit reports monthly while the permit is valid on forms provided by the Commissioner. Reports must be submitted by the 15th of each month even if no harvest activity took place. All information requested on the report must be provided. Failure to submit information requested on the report may result in revocation of the existing permit and may render the permittee ineligible for permits for one year.
  - (4) 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.
- (f) **Special Restrictions.**
- (1) 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.
  - (2) Live mussels may not be transferred within or between bodies of water, except under permit issued by the Commissioner.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 11.04.

#### **§ 5245. Crayfish.**

- (a) **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.
- (b) **Methods.**
  - (1) 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.
  - (2) The mesh size for crayfish traps may not be less than one-half inch, stretch measure.
  - (3) Floats used to mark traps may not be larger than four inches square or four inches in diameter.

- (4) Rough fish parts may be used within a crayfish trap as bait.
- (c) **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.
- (d) **Tending Crayfish Traps.** Crayfish traps may be lifted from one hour before sunrise until one hour after sunset. Crayfish traps must be lifted at least once in each 24-hour period weather permitting. All trapped fish not lawfully harvested under this Chapter must be returned to the water.
- (e) **Disposal of Crayfish.** Dead crayfish or the shells or meats of crayfish may not be returned to the water or deposited on any shoreline or adjacent area.
- (f) **Transportation and Stocking of Crayfish.** The transportation of any crayfish from one body of water to another within the state is prohibited, except by written permission from the Commissioner.
- (g) **Importation of Crayfish Prohibited.** The placement in waters of the state of any crayfish imported from outside the state is prohibited, except under permit by the Commissioner.
- (h) **Bag and Possession Limit.**
- (1) No member shall take or possess more than 25 pounds of live, whole freshwater crayfish at any time, unless the member is in possession of a commercial crayfish harvesting permit issued under paragraph (i).
- (2) No member shall sell crayfish except for subsistence uses unless the member is in possession of a commercial crayfish harvesting permit issued under paragraph (i).
- (i) **Commercial Harvest Permits.**
- (1) The Commissioner may issue permits to harvest crayfish commercially. Such a permit shall be issued only upon submission of a complete written application containing such information as the Commissioner deems appropriate, and shall be valid for one season or such shorter period of time as the Commissioner deems appropriate.
- (2) Only members listed on the permit may assist the permit holder in any phase of the crayfish harvesting operations.
- (3) The Commissioner may revoke any permit upon determination that revocation is necessary for protection of natural resources.

- (4) Any variance from permit conditions requires a written amendment which must be attached to and become part of the permit.
- (5) 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.
- (6) 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.
- (7) Crayfish lawfully harvested may be bought, sold, and transported for food purposes and as processed bait only, except as otherwise provided in this § 5245. Crayfish must be kept separated from live fish when being transported within the state.
- (8) Crayfish lawfully possessed may be exported for any purpose.
- (9) 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.
- (10) 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.
- (11) 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.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 11.06.

## **SUBCHAPTER 12**

## WILD PLANT HARVESTING REGULATIONS

### Section

- 5261. Purpose.
- 5262. Definitions.
- 5263. Gathering on Certain Public Lands Prohibited.
- 5264. Gathering on Certain Private Lands Prohibited.
- 5265. Wild Plant Harvesting Permits.
- 5266. Restrictions on Wild Plant Gathering – Public Safety.
- 5267. Sale of Wild Plants Authorized.
- 5268. Assistance by Non-Band Member.

### § 5261. Purpose.

The purpose of this Subchapter is to regulate the harvest of wild plants, or any parts thereof, which are not regulated pursuant to Subchapter 5 [Wild Rice Harvesting Regulations] of this Chapter

#### Historical and Statutory Notes

#### Source:

Band Ordinance 07-97, § 12.01.

### § 5262. Definitions.

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

- (a) **"Fuel wood"** shall mean trees, whether standing or down, that will be used for personal use to produce heat.
- (b) **"Gathering"** means cutting, rooting up, severing, injuring, destroying, removing, or carrying away any wild plant or part thereof.
- (c) **"Ginseng"** means the roots, seeds or other parts of wild American ginseng (Panax quinquefolium or Panax quinquefolius).
- (d) **"Public Landowner"** means any owner or other entity responsible for the management of any public land.
- (e) **"Public lands"** means those lands, including the beds of any streams and flowages, located within the ceded territory owned by the State of Minnesota or any of its political subdivisions or Departments.
- (f) **"Wild plant"** means any undomesticated species, and fruit or part thereof, of the plant kingdom occurring in the natural ecosystem, and includes without limitation

endangered or threatened plant species, as defined in § 4011(g) of this Chapter, trees and tree products (such as timber, firewood, fuelwood bark, sap and boughs), and ginseng, but excludes for the purposes of this Chapter wild rice.

- (g) **"Timber"** shall mean trees that will produce products of value, whether standing or down, and includes logs, posts, poles, bolts, pulpwood, cordwood and lumber, but shall not include fuelwood, bark, sap or boughs.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 12.02.

#### **§ 5263. Gathering on Certain Public Lands Prohibited.**

No member shall engage in a particular wild plant gathering activity in a particular area on public lands where the public landowner has notified the Commissioner that:

- (a) the particular activity is contrary to the area's general plant management plan or system; or
- (b) the particular area is closed to gathering under the area's general plant management plan or system.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 12.02A.

#### **§ 5264. Gathering on Certain Private Lands Prohibited.**

No member shall gather any wild plant on private lands except those lands which are open to the general public for gathering by operation of state law.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 12.02B.

#### **§ 5265. Wild Plant Harvesting Permits.**

- (a) **Generally.**

- (1) Except as provided in paragraph (d) [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.
- (2) 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 paragraph (a).
- (3) 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.
- (4) 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.
- (5) 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.
- (6) No member shall be authorized to engage in the business of harvesting nuisance plants under the authority of this Code.

(b) **Ginseng Gathering Permits.**

- (1) No ginseng gathering permit shall be issued and no member shall gather ginseng from January 1 through August 31.
- (2) A member may not sell, purchase, or possess any green roots of wild ginseng, except during the open season.

- (3) A member may not harvest, dig, or disturb any wild ginseng plant unless the plant has at least three prongs (leaves) with five leaflets each.
  - (4) Immediately after digging or removing any wild ginseng plant, the digger must remove all of the seeds from the plant's berries and plant them in the area where the plant was dug. Seeds must be planted by removing surface litter, planting each seed at a depth of one-half inch in the underlying soil, and replacing the surface litter over the planting site.
- (c) **Gathering Permits for Trees and Tree Products.**
- (1) No permit shall be issued for and no member shall engage in the commercial harvest of any species of timber except as permitted by state law.
  - (2) Except as provided in paragraph (c)(1), and subject to the provisions of paragraph (c)(3), the Department of Natural Resources may issue a permit to a member or group of members for the gathering of trees or tree products. Any such permit shall be issued in accordance with paragraphs (a)(3) and (4).
  - (3) Except for a permit to gather bark, the Department of Natural Resources shall not issue a permit for the gathering of trees or tree products until the Department receives the written consent of the public landowner of the lands covered by the permit.
- (d) **Subsistence Uses.** Except as required by paragraphs (b) and (c), no permit shall be required for a member to gather wild plants for subsistence uses.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 12.03.

**§ 5266. Restrictions on Wild Plant Gathering – Public Safety.**

No member engaged in the gathering of wild plants pursuant to this Subchapter shall impair or obstruct developed recreational trails or special use areas and any wild plant subject to the gathering which may impede or impair the use of those trails or areas shall be removed immediately.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 12.04.

**§ 5267. Sale of Wild Plants Authorized.**

- (a) Except as provided in § 5265(c)(1) of this Chapter, nothing contained in this Chapter shall be construed to prohibit members from selling any wild plant, or any part thereof, lawfully harvested pursuant to this Subchapter.
- (b) Except with the respect to the sale of ginseng, the provisions of § 4047 [Records of Commercial Transactions Required] of this Chapter shall not apply to the sale of any wild plant, or part thereof, lawfully harvested pursuant to this Subchapter.
- (c) In addition to such other information that is required by § 4040 of this Chapter, no member shall fail to specify the county of ginseng harvest on the record of a commercial transaction.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 12.05.

#### **§ 5268. 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 Subchapter except as provided in § 4051 [Permissible Conduct/Assistance by Non-Members] of this Chapter.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 07-97, § 12.06.