

**POKAGON BAND OF POTAWATOMI INDIANS
HUNTING AND GATHERING CODE**

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CHAPTER 1 GENERAL PROVISIONS

Section 1.01 Short Title

This Code shall be known, and may be cited as, the “Hunting and Gathering Code”.

Section 1.02 Authority

The Tribal Council enacts this Code pursuant to Article 1, Section 2; Article III, Sections 1 and 2; and Article IX, Subsections 2(a) and 2(i) of the Constitution and the duties of the Tribal Council under Article IX, Subsections 1(a), 1(c) and 1(d) of the Constitution.

Section 1.03 Findings

The Tribal Council finds as follows:

(a) The Band is a federally recognized Indian tribe, as reaffirmed by the Pokagon Restoration Act and is organized under the Constitution;

(b) The Band has a sacred obligation to protect, for the benefit of Citizens, Natural Resources within the jurisdiction of the Band;

(c) Under Article IX, Subsection 1(a) of the Constitution, the duties of the Tribal Council include promoting and protecting the peace, health, safety and general welfare of the Band;

(d) Under Article IX, Subsection 2 of the Constitution, the powers of the Tribal Council include to enact laws, not inconsistent with the Constitution; establish governmental departments; and delegate to such departments the power to manage the Band’s governmental programs, activities and property;

(e) The Band is, or will be, the beneficial owner of Trust Land, and owns Fee Land, within the States;

(f) Under Article III, Section 2 of the Constitution, the territory of the Band consists of Trust Land and Fee Land;

(g) Under Article III, Section 1 of the Constitution, the Band’s sovereign powers extend to all persons and Natural Resources within the jurisdiction of the Band “to the fullest extent consistent with self-determination and, to the extent applicable, with federal law”;

(h) Under Section 1300j(7) of the Pokagon Restoration Act, the Band’s jurisdiction extends to Trust Land “to the full extent allowed by law”;

- (i) The Band has jurisdiction to regulate Natural Resource Activities within Trust Land because such right has never been modified or relinquished by treaty or Congress;
- (j) The Band’s jurisdiction to regulate Natural Resource Activities within Trust Land includes the right to prohibit Non-Citizens from engaging in Natural Resource Activities within Trust Land;
- (k) Non-Citizens who violate this Code within Trust Land seriously imperil the health, safety and general welfare of the Band, including without limitation, by increasing beyond safe limits the number of persons engaging in Natural Resource Activities within Trust Land;
- (l) The Band’s jurisdiction to regulate Natural Resource Activities within Trust Land includes the right to authorize Non-Citizen Spouses to engage in certain Natural Resource Activities within Trust Land;
- (m) The Band possesses certain authority and rights relating to Fee Land, including without limitation, to restrict access to Fee Land and to condition entry to Fee Land;
- (n) The authorization under this Code for Citizens to engage in Natural Resource Activities within Fee Land is consistent with the Band’s authority to restrict access to Fee Land and condition entry to Fee Land and the Band’s authority over Citizens;
- (o) The authorization under this Code for Non-Citizen Spouses to engage in Natural Resource Activities within Fee Land is consistent with the Band’s authority to restrict access to Fee Land and condition entry to Fee Land;
- (p) Article I, Section 2 of the Constitution reserves to Citizens the right to engage in certain Natural Resource Activities for Permitted Uses “subject to reasonable restrictions established by Tribal Council” for the protection of Natural Resources and public safety;
- (q) Under Article 1, Section 2 of the Constitution, Citizens are not permitted to “develop . . . [Natural Resources] without being authorized for that purpose in accordance with” Band Law;
- (r) The provisions of this Code are reasonable for the protection of Natural Resources and public safety and will promote and protect the peace, health and general welfare of the Band;
- (s) The jurisdictional framework governing Trust Land and Fee Land presents the risk of confusion and disputes involving the jurisdiction of the Band and the States;
- (t) The Band seeks to minimize the risk of confusion and jurisdictional disputes regarding Natural Resource Activities within Fee Land by requiring Citizens and Non-Citizen Spouses to comply with State Law, except as otherwise provided in this Code;

(u) The Band seeks to minimize the risk of confusion regarding Natural Resource Activities within Trust Land by ensuring, to the extent feasible, that Band Law governing Natural Resource Activities within Trust Land parallels State Law; and

(v) This Code is necessary to protect self-governance and control internal relations of the Band.

Section 1.04 Purpose

The purposes of this Code are:

- (a) To protect self-governance and control internal relations of the Band;
- (b) To preserve and protect Natural Resources located within Trust Land and Fee Land for exclusive Hunting and Gathering by Citizens and Non-Citizen Spouses;
- (c) To establish and provide for the development of reasonable regulations governing Natural Resource Activities to preserve and protect Natural Resources, public safety and the peace, health and general welfare of the Band;
- (d) To minimize the risk of confusion and jurisdictional disputes regarding Natural Resource Activities within Fee Land by requiring Citizens and Non-Citizen Spouses to comply with State Law, except as otherwise provided in this Code;
- (e) To minimize the risk of confusion regarding Natural Resource Activities within Trust Land by ensuring, to the extent feasible, that Band Law governing Natural Resource Activities within Trust Land parallels State Law;
- (f) To establish enforcement mechanisms to ensure that Natural Resources are adequately protected whether located within Trust Land or Fee Land;
- (g) To delegate to the Department the powers granted under and duties imposed by this Code;
- (h) To state the duties and powers of Band Enforcement Officers in regard to Natural Resources; and
- (i) To fulfill the Band's sacred obligation to protect and reinforce the Band's traditions, culture and teachings by protecting and conserving Natural Resources for future generations.

Section 1.05 Scope

To the fullest extent permitted under Federal Law, all persons who engage in Natural Resource Activities within Trust Land or Fee Land shall be subject to this Code, the Rules and

Regulations, any Emergency Rules and Regulations, any Closure Orders and any Protection Orders.

Section 1.06 Construction

(a) This Code, to the extent reasonable, shall be read and interpreted in a manner consistent with the Constitution; provided that in the event of any inconsistency, the Constitution shall control.

(b) This Code, to the extent reasonable, shall be read and interpreted in a manner consistent with Federal Law, provided that in the event of any inconsistency, Federal Law shall control.

(c) The Rules and Regulations and any Emergency Rules and Regulations, Closure Orders and Protection Orders to the extent reasonable, shall be read and interpreted in a manner consistent with this Code; provided that in the event of any inconsistency, this Code shall control.

(d) Any Emergency Rules and Regulations, Closure Orders and Protection Orders to the extent reasonable, shall be read and interpreted in a manner consistent with the Rules and Regulations; provided that in the event of any inconsistency, the Emergency Rules and Regulations, Closure Orders and Protection Orders shall control.

(e) This Code shall be liberally construed in favor of the Band and is not intended to limit or repeal any Band power, authority, right or immunity, including without limitation, any possessed by the Police Department or any Band Enforcement Officer.

(f) Nothing in this Code is intended to, or shall waive any rights of the Band of any nature whatsoever reserved under any treaty or otherwise provided for under Federal Law.

(g) Nothing in this Code is intended to, or shall grant, expand or confirm in any way whatsoever, the jurisdiction of any State, rather any State Law prohibitions, limitations and requirements which are made applicable under this Code, are extended solely as a matter of Band Law.

(h) Nothing in this Code is intended to, or shall serve as a concession or admission of any nature whatsoever regarding the jurisdiction of any State or any burden arising from compliance with any State Law.

(i) Nothing in this Code is intended to, or shall limit any rights, powers, duties or privileges granted to the Tribal Council under the Constitution or by law.

Section 1.07 Severability

If any provision of this Code, or the application thereof to any person or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall

not affect, impair, or invalidate the remainder of this Code, which shall continue in full force.

Section 1.08 Effective Date

This Code shall become effective on the date of enactment by Tribal Council, except as otherwise specified by Tribal Council.

Section 1.09 No Waiver of Sovereign Immunity

Nothing in this Code is intended, or shall be construed to waive the sovereign immunity of the Band or any of its governmental officers, representatives, employees, or agents.

Section 1.10 Definitions

For purposes of this Code, the below capitalized terms, whether used as stated below or as a derivative of any such term, shall have the following meanings:

(a) "Accompany" means to go along with another person under circumstances that allow one to come to the immediate aid of the other person and while staying within a distance from the person that permits uninterrupted, unaided visual and auditory communication.

(b) "Amphibian" means a frog, toad, salamander, or other member of the class amphibia.

(c) "Applicable Law" means applicable Federal Law, State Law, or Band Law, or all.

(d) "Aquatic Species" means a Fish, Reptile, Amphibian, mollusk, aquatic insect, or Crustacea.

(e) "Assist" means to give support or aid, but not as the primary actor.

(f) "Bag limit" means the number of Wild Animals that may be Hunted or Possessed or the quantity of Wild Plants and Minerals that may be Gathered or Possessed as set forth in the Rules and Regulations, Emergency Rules and Regulations or Protection Orders.

(g) "Band" means the Pokagon Band of Potawatomi Indians, a sovereign federally recognized Indian tribe.

(h) "Band Enforcement Officer" means any officer of the Police Department and other person deputized by the Band to enforce Band Law.

(i) "Band Law" means all acts, codes, ordinances, regulations or other legislative action of the Band, including without limitation, this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Order, any Protection Order, and all rulings of the Tribal Court and Court of Appeals.

(j) "Band License" means a current license or permit issued by the Department, which authorizes the licensee engage in specified Natural Resource Activities.

(k) "Bow" means a device for propelling an arrow from a string drawn, held, and released by hand where the force used to hold the string in the drawn position is provided by the archer's muscles.

(l) "Buy" or "Sell" means an exchange or attempt or offer to exchange for money, barter, or anything of value.

(m) "Citizen" means a duly enrolled member of the Band.

(n) "Citizen Child" means a Citizen who is less than 18 years of age.

(o) "Closure Order" means an order approved by the Tribal Council upon recommendation by the Department closing all, or a portion of, a Hunting Unit or Gathering Unit, including without limitation, to Fishing or imposing restrictions on the types of Hunting Devices which may be used in specific Hunting Units.

(p) "Code" means this Hunting and Gathering Code.

(q) "Code of Offenses" means the Band's Code of Offenses.

(r) "Constitution" means the Band's Constitution.

(s) "Court of Appeals" means the appellate level court of the Band.

(t) "Crossbow" means a weapon consisting of a bow mounted transversely on a stock or frame and designed to fire an arrow, bolt, or quarrel by the release of a bow string that is controlled by a mechanical or electric trigger and has a working safety and a draw weight of 100 pounds or greater.

(u) "Crustacea" means a freshwater crayfish, shrimp, or prawn of the order decapoda.

(v) "Department" means the Band's Department of Natural Resources.

(w) "Department of Language and Culture" means the Band's Department of Language and Culture.

(x) "Disability" means a determinable physical characteristic of a person that may result from disease, injury, congenital condition of birth, or functional disorder.

(y) "Disabled Person" means a person who is determined by a physician or a physician assistant licensed to practice in a state to have one (1) or more of the following physical characteristics:

(1) Inability to walk more than 200 feet without having to stop and rest;

(2) Inability to use one (1) or both legs or feet if the person is unable to walk without the use of a wheelchair, walker, crutch, brace, prosthetic, or other device, or without the assistance of another person;

(3) A lung disease from which the person's forced expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or from which the person's arterial oxygen tension is less than sixty (60) mm/hg of room air at rest;

(4) A cardiovascular condition that causes the person to measure between three and four (3-4) on the New York heart classification scale, or that renders the person incapable of meeting a minimum standard for cardiovascular health that is established by the American Heart Association;

(5) An arthritic, neurological, or orthopedic condition that severely limits the person's ability to walk; or

(6) The persistent reliance upon an oxygen source other than ordinary air.

(z) "Elder" means a Citizen of the Band who is at least fifty-five (55) years of age.

(aa) "Emergency Rules and Regulations" means Rules and Regulations related to Natural Resources management or protection, which have been approved by the Tribal Council upon recommendation by the Department, to address an imminent threat to Natural Resources or public safety.

(bb) "Enforcement Officer" means any Band Enforcement Officer and any federal enforcement agents, including Special Agents of the U.S. Fish and Wildlife Service.

(cc) "Federal Law" means all applicable statutes, rules, regulations and orders of the United States or any agency thereof.

(dd) "Federal License" means a current license, permit, stamp or authorization issued by or in the name of an agency of the United States, which authorizes the licensee to engage in the authorized Natural Resource Activities.

(ee) "Fee Land" means all land, other than Trust Land, the fee title to which is held by the Band or any entity wholly owned by the Band, including the portion of all waters located therein or adjacent thereto.

(ff) "Feral Swine" means a free-ranging pig.

(gg) "Firearm" means a weapon from which a dangerous projectile may be propelled by using explosives, gas, or air as a means of propulsion, excluding a smooth bore rifle or

handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of a spring or air or gas.

(hh) "Fish" means all species of fish.

(ii) "Fishing" means to pursue, capture, catch, kill, or take Fish, or to attempt to engage any such activity.

(jj) "Fishing Assistance" means to Accompany and Assist a person who is lawfully Fishing.

(kk) "Fishing Device" means any fishing pole, net, spear, or any other apparatus or appliance for taking Fish.

(ll) "Fur-Bearing Animals" include badger, beaver, bobcat, coyote, fisher, fox, mink, muskrat, opossum, otter, raccoon, skunk, and weasel.

(mm) "Game" means the following Wild Animals that may be lawfully Hunted subject to the limitations and requirements of Applicable Law: badger; beaver; bobcat; brant; coot; coyote; crow; deer; duck; fisher; fox; Florida gallinule; geese; hare; Hungarian partridge; marten; mink; muskrat; opossum; otter; pheasant; quail; rabbit; raccoon; ruffed grouse; sharp-tailed grouse; skunk; snipe; sora rail; squirrel; Virginia rail; weasel; wild turkey; woodchuck; and woodcock.

(nn) "Gathering Assistance" means to Accompany and Assist a person who is lawfully Gathering.

(oo) "Gather" means to cut, collect or remove any Wild Plants or Minerals, or to attempt to engage in any such activity.

(pp) "Gathering Unit" means those portions of Trust Land and Fee Land where Gathering of Wild Plants and Minerals may lawfully occur, as set forth in the Rules and Regulations or any Emergency Rules and Regulations and subject to any Closure Order or Protection Order.

(qq) "Hunting Assistance" means to Accompany and Assist a person who is lawfully Hunting, but only with retrieving and transporting a Wild Animal after a kill.

(rr) "Hunt" means to hunt with any weapon, dog, or other wild or domestic animal trained for that purpose, pursue, capture, shoot, kill, chase, follow, harass, harm, rob, collect, take or Trap a Wild Animal, or to attempt to engage in any such activity.

(ss) "Hunting Device" means a Slingshot, Firearm, Crossbow or Bow.

(tt) “Hunting Unit” means those portions of Trust Land and Fee Land where Hunting of Wild Animals may lawfully occur, as set forth in the Rules and Regulations or any Emergency Rules and Regulations and subject to any Closure Order or Protection Order.

(uu) “Indian” means a member of a federally recognized Indian tribe, including a Citizen, provided that for purposes of Subsection 3.02(k) and Chapter 10 of this Code, “Indian” shall have the same meaning as set forth in the Code of Offenses.

(vv) “Indiana Law” means all Natural Resource related statutes, rules, regulations and orders of the State of Indiana or any agency thereof.

(ww) “License Agreement” means a binding agreement between the Band and a Citizen, the Band and a Non-Citizen Spouse, or the Band and a parent or legal guardian of a Citizen Child which is executed in connection with the issuance of any Band License.

(xx) “Licenses” means collectively all Band Licenses, State Licenses, and Federal Licenses required under Applicable Law.

(yy) “Michigan Law” means all Natural Resource related statutes, rules, regulations and orders of the State of Michigan or any agency thereof.

(zz) “Mineral” means any naturally occurring, homogeneous inorganic solid substance having a definite chemical composition and characteristic crystal structure, color, and hardness which is exposed on the ground.

(aaa) “Natural Resource” means all Wild Animals, Wild Plants and Minerals.

(bbb) “Natural Resource Activities” means Hunting, Gathering, Possessing, Transporting, Buying or Selling any Natural Resource.

(ccc) “Non-Citizen” means any person who is not a Citizen, excluding any Non-Citizen Spouse.

(ddd) “Non-Citizen Spouse” means any person other than a Citizen who is married to, or recognized as being married to, a Citizen pursuant to the Band’s Marriage Code.

(eee) "Open Season" means the dates during which specified Game may be legally Hunted and Wild Plants and Minerals may be legally Gathered.

(fff) “ORV” means a Vehicle designed for off-road use that is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels.

(ggg) “Permanent Disability” means a physical characteristic categorized as a Disability that significantly limits ambulation or necessitates the use of a wheelchair for mobility for which

there is a present medical expectation that the Disability will always persist and never significantly improve.

(hhh) "Permitted Use" means to use Natural Resources for food, medicine, clothing and other uses consistent with usual rights of occupancy, including Buying or Selling any Natural Resource in accordance with this Applicable Law, including without limitation, this Code; provided that in regard to Gathering any Wild Plant within Trust Land, "Permitted Use" means to use Wild Plants solely for personal use and not Selling.

(iii) "Pokagon Restoration Act" means P.L. 103-323, codified at 25 U.S.C. 1300j(1)-(8), enacted September 21, 1994, as amended.

(jjj) "Police Department" means the Band's Police Department.

(kkk) "Possess" means to carry, hold, keep or have influence, control or dominion over.

(lll) "Protected" means any Natural Resources that may not be Hunted or Gathered under a Protection Order or Applicable Law.

(mmm) "Protection Order" means an order approved by the Tribal Council upon recommendation by the Department designating certain Natural Resources as Protected.

(nnn) "Reptile" means a turtle, snake, lizard, or any other member of the class reptilia.

(ooo) "Rules and Regulations" means the rules and regulations approved by the Tribal Council upon recommendation by the Department related to management or protection of Natural Resources and public safety.

(ppp) "Slingshot" means any Y-shaped device with an elastic strip attached between the prongs used for projecting a stone or other object.

(qqq) "Small Game" includes all species of wild birds and Wild Animals which are Game, except deer, wild turkey, Fur-Bearing Animals and Waterfowl.

(rrr) "State" means the State of Michigan or the State of Indiana.

(sss) "State Law" means Michigan Law, or Indiana Law, or both.

(ttt) "State License" means a current license, permit or authorization issued by an agency of a State, which authorizes the licensee to engage in authorized Natural Resource Activities.

(uuu) "Traditional Use" means use of Natural Resources in connection with any ceremony, tradition, custom or spiritual practice of the Band as determined by the Department of Language and Culture.

(vvv) “Transport” means to carry or ship Natural Resources within Trust Land or Fee Land or from within Trust Land or Fee Land to points outside Trust Land or Fee Land.

(www) “Trap” means the Hunting of Wild Animals by means of a trap or other device designed to kill or capture.

(xxx) “Tribal Council” means the governing body of the Band established pursuant to Article X of the Constitution.

(yyy) “Tribal Court” means the trial level court of the Band.

(zzz) “Trust Land” means all land held in trust by the United States of America for the benefit of the Band, and all other real property which qualifies as the Band’s Indian country under 25 U.S.C. 1151, including the portion of all waters located therein.

(aaaa) “Unloaded” means, for a break-action Firearm that the action is open with the breech exposed, whether or not the breech contains a shell and, for a non-break-action Firearm, that neither the barrel nor magazine of the Firearm contain a shell and, for a muzzle-loading Firearm, that the cap is removed or priming powder is removed from the pan, or that the battery is removed on electronic systems (the ball and powder can remain in the barrel).

(bbbb) “Vehicle” means every device in, upon, or by which any person or property is or may be transported, except devices exclusively moved by human power.

(cccc) “Waterfowl” means ducks, geese, gallinules, and mergansers.

(dddd) “Wild Animal” means any animal, mammal, bird, Waterfowl, Reptile, Aquatic Species, Amphibian, or Crustacea of a wild nature and located within Trust Land or Fee Land.

(eeee) “Wild Plant” means any tree, bough, shrub, vine, or other plant, or a part of a tree, bough, shrub, vine, or other plant, including without limitation, sap, firewood, fruit, nuts, fungi.

CHAPTER 2 POWERS AND DUTIES OF DEPARTMENT

Section 2.01 Delegation

(a) The Department shall possess the powers granted under, and shall perform the duties imposed by, this Code.

(b) The Department shall make recommendations to the Tribal Council regarding the management and protection of Natural Resources, including without limitation, recommending the Rules and Regulations under Section 2.02 of this Code, and recommending any Emergency Rules and Regulations, Closure Orders and Protection Orders under Section 2.04 of this Code.

(c) The Department shall cause maps to be prepared which accurately depict the boundaries of all Trust Land, Fee Land, Hunting Units, Gathering Units and all areas subject to Closure Orders. All such maps shall form a part of the Rules and Regulations. The Department shall make all such maps available, including without limitation, by distributing copies from the Department's office and causing them to be posted on the Band's website.

(d) The Department shall implement and administer this Code, the Rules and Regulations, any Emergency Regulations, any Closure Orders, and Protection Orders.

(e) The Department shall cooperate with Band Enforcement Officers in connection with the exercise of any power granted under, or the performance of, any duties imposed on Band Enforcement Officers under Applicable Law.

Section 2.02 Rules and Regulations

(a) The Department shall develop and recommend the Rules and Regulations, which shall be reasonable for the management and protection of Natural Resources and public safety. At a minimum, the Rules and Regulations, shall establish:

- (1) Hunting Units and Gathering Units;
- (2) Open Seasons for Hunting and Fishing;
- (3) The hours for Natural Resource Activities;
- (4) The methods of Hunting and Fishing;
- (5) The Bag Limits for Natural Resource Activities;
- (6) The fees, if any, for the issuing of Band Licenses by the Department.

(b) Except as provided in this Code, the Rules and Regulations governing Natural Resource Activities within Fee Land shall be identical to State Law, provided that the Rules and Regulations may include provisions that are more restrictive than State Law.

(c) The Rules and Regulations governing Natural Resource Activities within Trust Land shall, to the extent feasible, parallel State Law.

(d) Except as otherwise determined by Tribal Council, the Rules and Regulations shall become effective upon approval by Tribal Council.

(e) The Department may develop amendments to the Rules and Regulations, subject to the provisions of Sections 2.02 and 2.03.

Section 2.03 Public Comment

(a) The Department shall ensure that Citizens are provided with notice and an opportunity to submit written comments on any proposed Rules and Regulations, and any amendments thereto, in accordance with this Section.

(b) At a minimum, the Department shall cause the following to occur in the order set forth below:

(1) A notice of posting the proposed Rules and Regulations, which shall include the following, shall be displayed on the Band's website and at the Department's offices:

(A) A statement that only Citizens may provide written comments;

(B) A statement that written comments may be physically delivered to the Department or sent by fax or email;

(C) The telephone number of the Department;

(D) The address of the Department for physical delivery of comments;

(E) The fax and email address for electronic delivery of comments; and

(F) The date and time within which written comments must be received by the Department.

(2) The proposed Rules and Regulations shall be displayed or made available through the Band's website and at the Department's offices for a minimum of thirty (30) calendar days;

(3) The Department shall review any comments which are timely received and may revise the proposed Rules and Regulations based on such comments; and

(4) The Department shall forward the proposed Rules and Regulations to the Tribal Council for consideration.

(c) Nothing in this Section shall prohibit the Department from obtaining public comment or input on proposed Rules and Regulations through additional means, including without limitation, by way of public meetings.

Section 2.04 Emergency Rules and Regulations

(a) If the Department concludes, after investigation, that there is an imminent threat to Natural Resources or public safety, the Department may develop and recommend draft Emergency Rules and Regulations.

(b) If the Department concludes that to protect Natural Resources or public safety, it is necessary to close all or a portion of a Hunting Unit or Gathering Unit, the Department may develop and recommend a draft Closure Order.

(c) If the Department concludes that to preserve or protect Natural Resources, it is necessary to designate the Natural Resources as Protected, the Department may develop and recommend a draft Protection Order.

(d) Except as provided in this Code, the Emergency Rules and Regulations, Closure Orders and Protection Orders governing Natural Resource Activities within Fee Land shall be identical to State Law, provided that the Emergency Rules and Regulations, Closure Orders and Protection Orders may include provisions that are more restrictive than State Law.

(e) The Emergency Rules and Regulations, Closure Orders and Protection Orders governing Natural Resource Activities within Trust Land shall, to the extent feasible, parallel State Law.

(f) The Department may immediately forward any draft Emergency Rules and Regulations, draft Closure Order, or draft Protection Order to the Tribal Council for consideration.

(g) Except as otherwise determined by Tribal Council, Emergency Rules and Regulations, Closure Orders and Protection Orders shall become effective upon Tribal Council approval.

(h) In approving any Emergency Rules and Regulations, Closure Order or Protection Order, the Tribal Council shall specify the time-period that the Emergency Rules and Regulations, Closure Order or Protection Order shall remain in effect, which may be until further action by the Tribal Council, provided that the Department shall cause the Tribal Council to review any such Emergency Rules and Regulations, Closure Order or Protection Order at least once annually.

CHAPTER 3 RELATIONSHIP TO NATURAL RESOURCES AND AUTHORIZED PERSONS

Section 3.01 Relationship to Natural Resources

(a) The Band has a sacred obligation to preserve and protect, for the benefit of Citizens, all Natural Resources within the jurisdiction of the Band, whether resident or migratory and whether native or introduced. Accordingly, all such Natural Resources may be regulated by the Band to the fullest extent permitted under Applicable Law.

(b) Only the Tribal Council may designate a species as Game. All such designations shall occur through amendment to this Code after recommendation by the Department.

Section 3.02 Authorized Persons

(a) Citizens may engage in Natural Resource Activities only within Hunting Units and Gathering Units for Permitted Uses during the applicable Open Season, subject to Applicable Law.

(b) Non-Citizen Spouses may engage in Natural Resource Activities only within Hunting Units and Gathering Units for Permitted Uses during the applicable Open Season, subject to Applicable Law.

(c) Non-Citizen Spouses, who are not Indians, shall not engage in Gathering for any purpose within Trust Land.

(d) Non-Citizens shall not engage in any Natural Resource Activities for any purpose within Trust Land or Fee Land.

(e) A Citizen or Non-Citizen Spouse who, within the jurisdiction of the Band, engages in Hunting outside of the Hunting Units during Open Season shall be liable for a civil fine of not less than \$500.00 or more than \$2,000.00.

(f) Except as otherwise provided in Subsections 3.02(k) and 3.02(l) and Chapter 10 of this Code, a Non-Citizen who, within the jurisdiction of the Band, engages in Hunting for any purpose shall be liable for a civil fine of not less than \$1,000.00 or more than \$4,000.00.

(g) A Citizen who, within the jurisdiction of the Band, engages in Gathering outside of the Gathering Units during Open Season shall be liable for a civil fine of not less than \$200.00 or more than \$1,000.00.

(h) Except as otherwise provided in Subsection 3.02(i) of this Code, a Non-Citizen Spouse who, within the jurisdiction of the Band, engages in Gathering outside of the Gathering Units during Open Season shall be liable for a civil fine of not less than \$200.00 or more than \$1,000.00.

(i) A Non-Citizen Spouse, who is non-Indian, and who, within the jurisdiction of the Band, engages in Gathering within Trust Land for any purpose, shall be liable for a civil fine of not less than \$400.00 or more than \$2,000.00.

(j) A Non-Citizen who, within the jurisdiction of the Band, engages in Gathering for any purpose, shall be liable for a civil fine of not less than \$400.00 or more than \$2,000.00.

(k) An Indian who, within the jurisdiction of the Band, engages in Hunting outside of the applicable Open Season shall be guilty of a crime and shall be subject to imprisonment, or a fine, or both as set forth in Chapter 10 of this Code.

(l) A non-Indian who, within the jurisdiction of the Band, engages in Hunting outside of the applicable Open Season shall be liable for a civil fine as set forth in Chapter 10 of this Code.

(m) Except as otherwise provided in Subsection 3.02(i) of this Code, a Citizen or Non-Citizen Spouse who, within the jurisdiction of the Band, engages in Gathering outside of the applicable Open Season, shall be liable for a civil fine of not less than \$400.00 or more than \$2,000.00.

Section 3.03 Assistance

(a) Notwithstanding any other provision of this Code:

(1) Except as otherwise provided in Subsection 3.03(a)(3) below, one (1) person, who is not authorized to Hunt within Trust Land or Fee Land, may provide Hunting Assistance to a Citizen or Non-Citizen Spouse who is Hunting in accordance with Applicable Law.

(2) Except as otherwise provided in Subsection 3.03(a)(4) below, one (1) person, who is not authorized to Gather within Trust Land or Fee Land, may provide Gathering Assistance to a Citizen or Non-Citizen Spouse who is Gathering in accordance with Applicable Law.

(3) One (1) parent or legal guardian or another person who is at least eighteen (18) years of age, and is authorized by a parent or legal guardian, who is not authorized to Fish within Trust Land or Fee Land, may provide Fishing Assistance to the Citizen Child or ward who is under seventeen (17) years of age and is Fishing in accordance with Applicable Law.

(4) One (1) parent or legal guardian or another person who is at least eighteen (18) years of age, and is authorized by the parent or legal guardian, who is not authorized to Gather within Trust Land or Fee Land, may provide Gathering Assistance to the Citizen Child or ward who is under seventeen (17) years of age and is Gathering in accordance with Applicable Law.

(b) Nothing in Subsection 3.03(a) above shall: (1) prohibit a person who is otherwise authorized to engage in Natural Resources Activities within Trust Land or Fee Land from providing Gathering Assistance, Hunting Assistance, or Fishing Assistance, as applicable, in accordance with Applicable Law; or (2) affect any License required under Section 7.04 of this Code.

(c) Without limitation, all persons providing Gathering Assistance, Hunting Assistance or Fishing Assistance within Trust Land or Fee Land shall be subject to Sections 4.03, 4.04 and 4.05 of this Code, as applicable.

Section 3.04 Other Land

Notwithstanding any provision of this Code, a person may lawfully Possess, Transport, Buy or Sell within Trust Land or Fee Land Natural Resources which were lawfully Hunted or Gathered

on land other than Trust Land or Fee Land, provided that such Natural Resource Activities are in accordance with Applicable Law.

CHAPTER 4 REQUIRED LICENSES AND COMPLIANCE

Section 4.01 Trust Land Required Licenses

(a) Except as expressly provided in Subsection 3.03(a), 4.01(c) or 4.01(d) of this Code, Citizens must have a valid Band License to engage in the Natural Resource Activities within Trust Land and are not required to have a State License.

(b) Except as expressly provided in Subsection 3.03(a) in this Code, Non-Citizen Spouses must have a valid Band License and the applicable State License to engage in the Natural Resource Activities within Trust Land.

(c) Any Citizen under seventeen (17) years of age may engage in Fishing within Trust Land without a valid Band License or State License.

(d) Any Citizen under seventeen (17) years of age may engage in Gathering within the scope of a Wild Plant Gathering License within Trust Land without a valid Band License or State License.

(e) Citizens and Non-Citizen Spouses must have any required Federal License, including without limitation, a migratory bird stamp, to engage in Natural Resource Activities within Trust Land.

(f) A person who, within the jurisdiction of the Band, engages in Natural Resource Activities without a required State License or Federal License shall be liable for a civil fine of not less than \$100.00 or more than \$500.00.

Section 4.02 Fee Land Required Licenses

(a) Except as expressly provided in Subsection 3.03(a), 4.02(c) or 4.02(d) of this Code, Citizens must have a valid Band License and any applicable State License to engage in the Natural Resource Activities within Fee Land.

(b) Except as expressly provided in Subsection 3.03(a) of this Code, Non-Citizen Spouses must have a valid Band License and any applicable State License to engage in the Natural Resource Activities within Fee Land.

(c) Any Citizen under seventeen (17) years of age may engage in Fishing within Fee Land without a valid Band License and, if exempt from such licensure under the applicable State Law, without a State License.

(d) Any Citizen under seventeen (17) years of age may engage in Gathering within the scope of a Wild Plant Gathering License within Fee Land without a valid Wild Plant Gathering License and, if exempt from such licensure under applicable State Law, without a State License.

(e) Citizens and Non-Citizen Spouses must have any required Federal License, including without limitation, a migratory bird stamp, to engage in Natural Resource Activities within Fee Land.

(f) A person who, within the jurisdiction of the Band, violates this Section by engaging in Natural Resource Activities without a required State License or Federal License shall be liable for a civil fine of not less than \$100.00 or more than \$500.00.

Section 4.03 Trust Land Compliance

(a) Citizens engaging in Natural Resource Activities within Trust Land must comply with all Band Law and Federal Law, but not State Law, in connection with such Natural Resource Activities within Trust Land.

(b) Non-Citizen Spouses (and all Non-Citizens under Section 3.03 of this Code) engaging in Natural Resource Activities within Trust Land within the State of Michigan must comply with all Band Law, Federal Law and Michigan Law incorporated into Band Law in connection with such Natural Resource Activity, provided that in the event of any conflict between Band Law and any incorporated Michigan Law, Non-Citizen Spouses shall comply with Band Law.

(c) Non-Citizen Spouses (and all Non-Citizens under Section 3.03 of this Code) engaging in Natural Resource Activities within Trust Land within the State of Indiana must comply with all Band Law, Federal Law and Indiana Law incorporated into Band Law in connection with such Natural Resource Activity, provided that in the event of any conflict between Band Law and any incorporated Indiana Law, Non-Citizen Spouses shall comply with Band Law.

Section 4.04 Fee Land Compliance

(a) Citizens engaging in Natural Resource Activities within Fee Land within the State of Michigan must, as a condition of entry to Fee Land and consistent with the Band's authority over Citizens, comply with all Band Law, Federal Law, and Michigan Law in connection with such Natural Resource Activities, provided that in the event of any conflict between Band Law and Michigan Law, Citizens must comply with Michigan Law, unless Band Law is more restrictive than Michigan Law, in which case Citizens must comply with Band Law.

(b) Citizens engaging in Natural Resource Activities within Fee Land within the State of Indiana must, as a condition of entry to Fee Land and consistent with Band's authority over Citizens, comply with all Band Law, Federal Law, and Indiana Law in connection with such Natural Resource Activities, provided that in the event of any conflict between Band Law and Indiana Law, Citizens must comply with Indiana Law, unless Band Law is more restrictive than Indiana Law, in which case Citizens must comply with Band Law.

(c) Non-Citizen Spouses (and all Non-Citizens under Section 3.03 of this Code) engaging in Natural Resource Activities within Fee Land within the State of Michigan must, as a condition of entry to Fee Land, comply with all Band Law, Federal Law, and Michigan Law in connection with such Natural Resource Activities, provided that in the event of any conflict between Band Law and Michigan Law, Non-Citizens must comply with Michigan Law, unless Band Law is more restrictive than Michigan Law, in which case Citizens must comply with Band Law.

(d) Non-Citizen Spouses (and all Non-Citizens under Section 3.03 of this Code) engaging in Natural Resource Activities within Fee Land within the State of Indiana must, as a condition of entry to Fee Land, comply with all Band Law, Federal Law, and Indiana Law in connection with such Natural Resource Activities, provided that in the event of any conflict between Band Law and Indiana Law, Non-Citizens must comply with Indiana Law, unless Band Law is more restrictive than Indiana Law, in which case Citizens must comply with Band Law.

Section 4.05 Responsibility for Compliance

(a) Where compliance with Federal Law is required, all Citizens and Non-Citizen Spouses (and all Non-Citizens under Section 3.03 of this Code) are solely responsible for such compliance. Specifically, a Band License shall not authorize a Citizen or Non-Citizen Spouse to engage in any conduct within Trust Land or Fee Land which is prohibited under Federal Law.

(b) Where compliance with State Law is required, all Citizens and Non-Citizen Spouses (and all Non-Citizens under Section 3.03 of this Code) are solely responsible for such compliance. Specifically, a Band License shall not authorize a Citizen or Non-Citizen Spouse to engage in any conduct within Fee Land which is prohibited under State Law.

Section 4.06 Band License Required

(a) Any person who obtains any Federal License in connection with engaging in any Natural Resource Activities within Trust Land or Fee Land must also obtain from the Department all Band Licenses required under this Code, and obtaining any Federal License shall not relieve any person of any limitation or requirement under Band Law.

(b) Any person who obtains any State License in connection with engaging in any Natural Resource Activities within Trust Land or Fee Land must also obtain from the Department all Band Licenses required under this Code, and obtaining any State License shall not relieve any person of any limitation or requirement under Band Law.

CHAPTER 5 ISSUING BAND LICENSES

Section 5.01 License Application

(a) Except as provided in Section 7.01, to obtain any Band License, including without limitation, any special permit under Chapter 8 of this Code, the applicant shall provide the Department with the following:

- (1) Proof of enrollment as a Citizen or, if a Non-Citizen Spouse, proof of marriage to a Citizen and, if applicable, proof that the Non-Citizen Spouse is Indian;
- (2) Proof of age;
- (3) All information required on the Band License application;
- (4) Any required Band License fee;
- (5) Any required State License to engage in the applicable Natural Resource Activities, unless the applicant is a Citizen who will engage in Natural Resource Activities exclusively within Trust Land; and
- (6) A signed License Agreement.

(b) An applicant for a Band License who has previously been convicted of or found responsible for a violation of this Code may be required to file with an application any other information required by the Department.

(c) Any applicant who presents a valid State License under Subsection 5.01(a)(5) of this Code to engage in Hunting shall be deemed to have the requisite Hunting experience to obtain a Band License.

(d) Any applicant who is a Citizen and will engage in Natural Resource Activities exclusively within Trust Land, and who was born after January 1, 1960, shall be eligible for a Band Hunting License if the applicant presents proof of previous Hunting experience in the form of a hunting license issued by any state, tribe, a province of Canada, or another country, or presents a certification of completion of a hunter safety course, or submits a signed affidavit stating that the person completed a hunter safety course or that the applicant possessed such a hunting license previously.

(e) A person shall not:

- (1) Make a false statement, whether verbal or written, for the purpose of obtaining any Band License or use or attempt to use any Band License which was obtained through a false statement;

(2) Sell, loan, use or permit in any manner another person to use the person's License or a Band Citizen's enrollment card;

(3) Falsely make, alter, forge, or counterfeit any License or any Band Citizen's enrollment card, or possesses an altered, forged, or counterfeited License or Band Citizen's enrollment card; or

(4) Apply for, obtain, or purchase a Band License if the person is not a Citizen or Non-Citizen Spouse or during any time that the person is ineligible to secure the Band License.

(f) A person who, within the jurisdiction of the Band, violates Subsection 5.01(e) of this Code shall be liable for a civil fine of not less than \$50.00 or more than \$500.00 and shall surrender any Band License that was wrongfully obtained.

Section 5.02 License Contents

(a) Every Band License issued by the Department under this Code shall include, without limitation, the following information:

(1) Name and Band enrollment number of the Citizen, or the Name of the Non-Citizen Spouse;

(2) Whether the licensee is a Citizen or Non-Citizen Spouse and whether a Non-Citizen Spouse is Indian;

(3) The type of Band License; and

(4) The effective period of the Band License.

(b) To be valid, a Band License must bear the Band seal or signature of the Director of the Department, which signature may be an original, electronic or signature stamp.

Section 5.03 License Agreement

(a) Prior to issuing any Band License, the Department shall require every Citizen, Non-Citizen Spouse and parent or legal guardian of a Citizen Child to sign a License Agreement. The purpose of the License Agreement is to ensure that the Band has an adequate enforcement mechanism in the event any Citizen or a Non-Citizen Spouse violates this Code.

(b) The License Agreement shall be in a form approved by the Tribal Council and, without limitation, shall:

(1) Require the licensee to comply with all Applicable Law, including without limitation, all Band Law;

(2) Provide for liquidated damages if the licensee breaches the License Agreement;

(3) State the law governing interpretation of the License Agreement;

(4) Provide that the Band may bring any civil action arising under the License Agreement in any court of competent jurisdiction, including without limitation, the Tribal Court; and

(5) Provide that the Citizen, Non-Citizen Spouse, or parent or legal guardian of a Citizen Child consents to the personal jurisdiction of the Tribal Court for any civil action arising under the License Agreement.

(c) Any other provision of Band Law notwithstanding, the Tribal Court shall have subject matter jurisdiction over any action arising under any License Agreement which is initiated by the Band.

Section 5.04 License Fees

(a) The Department may develop and recommend a schedule of fees for Band Licenses, which shall become effective upon approval by the Tribal Council. In the absence of such schedule, the fee or cost for any Band License shall be zero dollars (\$0.00).

(b) The Department may propose amendments to any schedule of fees, including discounts to the price of any Band License for the purpose of increasing participation in Natural Resource Activities and achieving management objectives for a species, which shall become effective upon approval by the Tribal Council.

(c) Any Band License fees for Elders shall be discounted by sixty percent (60%) from the set fee.

Section 5.05 Replacement License

(a) If a Band License, including a kill tag, issued pursuant to this Code is lost or destroyed, a licensee may procure a duplicate from the Department by filing a certification of loss form with the Department and paying the duplicate fee for each duplicate requested.

(b) If the licensee meets the requirements of this Chapter for procuring a Band License, the Department shall verify issuance of the original Band License and issue to the licensee a duplicate Band License and shall collect, without regard to any discounts, the following applicable duplicate fees:

(1) \$5.00 for each Band License included in a certification of loss; and

(2) \$3.00 for each kill tag included in a certification of loss.

Section 5.06 License Quota

(a) The Department, when reasonable for the preservation and protection of Natural Resources or public safety, may establish and adjust a quota on the number of each type of Band License that may be issued under this Code, including without limitation, limiting the number of Band Licenses for specific Hunting Units and Gathering Units.

(b) Promptly following the establishment or adjustment of any License quota under Subsection 5.06(a) above, the Department shall post notice thereof on the Band's website and at the Department's office.

Section 5.07 Expiration

Any Band License is non-transferrable and shall be valid only for the Open Season for which the Band License was issued.

CHAPTER 6 TYPES OF BAND LICENSES AND KILL TAGS

Section 6.01 Types of Licenses

(a) The Department shall develop and issue Band Licenses, including without limitation, the following:

- (1) Fishing License;
- (2) Small Game Hunting License;
- (3) Wild Turkey Hunting License;
- (4) Waterfowl Hunting License;
- (5) Deer Hunting License;
- (6) Fur Harvester License;
- (7) Turtle Hunting License;
- (8) Wild Plant Gathering License;
- (9) Mineral Gathering License;
- (10) Sugar Bush License;

- (11) Bough License;
- (12) Ash, Basswood, Ironwood and Northern Hackberry License;
- (13) Burl License;
- (14) Nuisance Control Permit;
- (15) Disabled Hunter Permit;
- (16) Traditional Use Permit;
- (17) Firewood Use Permit;
- (18) ORV Use Permit;
- (19) Junior Hunting License;
- (20) Junior Apprentice Hunting License; and
- (21) Mentored Youth Hunting License.

(b) The Department may combine into a single license any combination of the Licenses listed in Subsection 6.01(a)(1) - 6.01(a)(7) or 6.01(a)(8) – 6.01(a)(13).

Section 6.02 Authorized Activities

(a) To engage in Natural Resource Activities within Trust Land or Fee Land, a person must possess all required Licenses, except as expressly provided in this Code and comply with all Applicable Laws, as set forth in Chapter 4 of this Code. A valid Band License authorizes the licensee to engage solely in the following Natural Resource Activities permitted under the Band License, subject to Applicable Law:

(1) A person shall not engage in Fishing or Possess or Transport within Trust Land or Fee Land any Aquatic Species, except turtles, without a valid Fishing License. A Fishing License authorizes the licensee to engage in Fishing for all Aquatic Species, except turtles.

(2) A person shall not Hunt, Possess or Transport within Trust Land or Fee Land any Small Game without a valid Small Game Hunting License.

(3) A person shall not Hunt, Possess or Transport within Trust Land or Fee Land any wild turkey without a valid Wild Turkey Hunting License.

(4) A person shall not Hunt, Possess or Transport within Trust Land or Fee Land any Waterfowl without a valid Waterfowl Hunting License.

(5) A person shall not Hunt, Possess or Transport within Trust Land or Fee Land any deer without a valid Deer Hunting License.

(6) A person shall not Hunt, Possess or Transport within Trust Land or Fee Land any Fur-Bearing Animals without a valid Fur Harvester License, except as otherwise expressly permitted under Applicable Law.

(7) A person shall not Hunt, Possess or Transport within Trust Land or Fee Land any turtle without a valid Turtle Hunting License.

(8) A person shall not Gather, Possess or Transport within Trust Land or Fee Land any Wild Plants without a valid Wild Plant Gathering License, unless the person possesses another Band License under this Code which authorizes such activity.

(9) A person shall not Gather, Possess or Transport within Trust Land or Fee Land any Minerals without a valid Mineral Gathering License.

(10) A person shall not Gather, Possess or Transport within Trust Land or Fee Land any sap, or otherwise engage in any sugar bush operations, without a valid Sugar Bush License.

(11) A person shall not Gather, Possess or Transport within Trust Land or Fee Land any boughs without a valid Bough License.

(12) A person shall not Gather, Possess or Transport within Trust Land or Fee Land any ash tree, basswood tree, ironwood tree or northern hackberry tree without a valid Ash, Basswood, Ironwood and Northern Hackberry License.

(13) A person shall not Gather, Possess or Transport within Trust Land or Fee Land any burl without a valid Burl License.

(14) A person shall not engage in any conduct within Trust Land or Fee Land that is authorized under a Nuisance Control Permit unless such person Possesses a valid Nuisance Control Permit.

(15) A person shall not engage in any conduct within Trust Land or Fee Land that is authorized under a Disabled Hunter Permit unless such person Possesses a valid Disabled Hunter Permit.

(16) A person shall not engage in any conduct within Trust Land or Fee Land that is authorized under a Traditional Use Permit unless such person Possesses a valid Traditional Use Permit.

(17) A person shall not engage in any conduct within Trust Land or Fee Land that is authorized under a Firewood Use Permit unless such person Possesses a valid Firewood Use Permit.

(18) A person shall not engage in any conduct within Trust Land or Fee Land that is authorized under an ORV Use Permit unless such person Possesses a valid ORV Use Permit.

(19) A Citizen or Non-Citizen Spouse with any valid Band License issued under Subsection 6.01(a)(2) – 6.01(a)(7) or 7.02(c) – 7.02(e) of this Code who is lawfully Hunting on Trust Land or Fee Land during an Open Season and who observes Feral Swine, may Hunt the Feral Swine if permitted under and, subject to all limitations and requirements of, Applicable Law.

(b) A Citizen or Non-Citizen Spouse who, within the jurisdiction of the Band, violates Subsection 6.02(a)(1) of this Code shall be liable for a civil fine of not less than \$50.00 or more than \$250.00, provided that upon a showing that a Citizen or Non-Citizen Spouse was ineligible to secure a Band License under court order or other lawful authority, then such Citizen or Non-Citizen Spouse shall be liable for a civil fine of not less than \$1,000.00 or more than \$5,000.00.

(c) Except as otherwise provided in Section 3.02 and Chapter 10 of this Code, a Citizen or Non-Citizen Spouse who, within the jurisdiction of the Band, violates Subsection 6.02(a)(2) – 6.02(a)(4), 6.02(a)(6) or 6.02(a)(7) of this Code shall be liable for a civil fine of not less than \$250.00 or more than \$1,000.00. Notwithstanding the above, upon a showing that a Citizen or Non-Citizen Spouse was ineligible to secure a Band License under court order or other lawful authority, then such Citizen or Non-Citizen Spouse shall be liable for a civil fine of not less than \$1,000.00 or more than \$5,000.00.

(d) Except as otherwise provided in Section 3.02 and Chapter 10 of this Code, a Citizen or Non-Citizen Spouse who, within the jurisdiction of the Band, violates Subsection 6.02(a)(5) of this Code shall be liable for a civil fine of not less than \$500.00 or more than \$2,000.00. Notwithstanding the above, upon a showing that a Citizen or Non-Citizen Spouse was ineligible to secure a Band License under court order or other lawful authority, then such Citizen or Non-Citizen Spouse shall be liable for a civil fine of not less than \$1,000.00 or more than \$5,000.00.

(e) Except as otherwise provided in Subsection 3.02 of this Code, a Citizen or Non-Citizen Spouse who, within the jurisdiction of the Band, violates Subsection 6.02(a)(8) – 6.02(a)(13) of this Code shall be liable for a civil fine of not less than \$200.00 or more than \$1,000.00.

(f) A Citizen or Non-Citizen Spouse who, within the jurisdiction of the Band, violates Subsection 6.02(a)(19) of this Code shall be liable for a civil fine of not less than \$50.00 or more than \$250.00.

(g) The penalties for violations of Subsection 6.02(a) by Non-Citizens are set forth in Subsection 3.02 of this Code.

Section 6.03 Kill Tags

(a) The Department shall issue one or more kill tags as part of the Deer Hunting License and Wild Turkey License. A kill tag is part of the Band License.

(b) A kill tag shall state the species, Band License number and other pertinent information required by the Department.

(c) A person shall not use a kill tag furnished by the Department more than one (1) time, or attach, or allow a kill tag to be attached to a Wild Animal other than a Wild Animal lawfully killed by the person.

(d) A person who, within the jurisdiction of the Band, violates Section 6.03 of this Code shall be liable for a civil fine of not less than \$250.00 or more than \$1,000.00 for wild turkey or not less than \$500.00 or more than \$2,000.00 for deer.

CHAPTER 7 CITIZEN CHILD

Section 7.01 License Application

(a) To obtain any Band License for a Citizen Child, a parent or legal guardian of the Citizen Child must apply for the Band License on behalf of the Citizen Child and provide the Department with the following:

- (1) Proof of the Citizen Child's enrollment as a Citizen;
- (2) Proof of the Citizen Child's age;
- (3) Proof of any hunter safety certification, if required for the Band License;
- (4) All information required on the Band License application;
- (5) Any required Band License fee;
- (6) Any required State License to engage in the applicable Natural Resource Activities, unless the Citizen Child will engage in Natural Resource Activities exclusively within Trust Land; and
- (7) A signed License Agreement.

(b) To be valid, a Band License issued to a Citizen Child must be signed by the parent or legal guardian and bear the Band seal or signature of the Director of the Department, which signature may be an original, electronic or signature stamp.

(c) A person shall not:

- (1) Apply for, obtain, or purchase a Band License for a Citizen Child if the Citizen Child is not eligible to secure the Band License; or

(2) Apply for a Band License for a Citizen Child if the person is not a parent or legal guardian of the Citizen Child.

(d) A person who, within the jurisdiction of the Band, violates Subsection 7.01(c) of this Code shall be liable for a civil fine of not less than \$100.00 or more than \$500.00 and shall surrender any Band License that was wrongfully obtained.

Section 7.02 Types of Licenses

The Department may issue the following types of Licenses to a Citizen Child:

(a) A Citizen Child who is at least ten (10) years of age is eligible for all Gathering Licenses, listed in Subsections 6.01(a)(9) – 6.01(a)(13) of this Code.

(b) A Citizen Child who is at least seventeen (17) years of age is eligible for all Hunting and Fishing Licenses, including without limitation, the Band Licenses listed in Subsections 6.01(a)(1) – 6.01(a)(7).

(c) A Citizen Child who is at least ten (10), but less than seventeen (17) years of age and has successfully completed a hunter safety course is eligible for a Junior Hunting License in each of the categories listed in Subsections 6.01(a)(2) – 6.01(a)(7) of this Code.

(d) A Citizen Child who is at least ten (10), but less than seventeen (17) years of age and has not completed a hunter safety course is eligible for a Junior Apprentice Hunting License, in each of the categories listed in Subsections 6.01(a)(2) – 6.01(a)(7) of this Code. A Citizen Child may hunt with a Junior Apprentice Hunting License for up to two (2) years before the Citizen Child must successfully complete a hunter safety course.

(e) A Citizen Child who is less than ten (10) years of age is eligible for a Mentored Youth Hunting License, which shall include a Small Game Hunting License, Deer Hunting License, Wild Turkey Hunting License, Fur Harvester License and Turtle Hunting License.

Section 7.03 Gathering Supervision

(a) A Citizen Child shall not, and a parent or legal guardian of a Citizen Child shall not permit or allow the Citizen Child to, Gather Wild Plants or Minerals within Trust Land or Fee Land under the authority of any Band License issued under Section 7.02, except as permitted below:

(1) A Citizen Child who is seventeen (17) years of age or older may Gather Wild Plants and Minerals within Gathering Units located within Trust Land or Fee Land in accordance with Applicable Law.

(2) A Citizen Child who is less than seventeen (17) years of age may Gather Wild Plants and Minerals within Gathering Units located within Trust Land or Fee Land if a parent or

legal guardian or another person who is at least eighteen (18) years of age, and is authorized by a parent or legal guardian, Accompanies the Citizen Child.

(b) A person who, within the jurisdiction of the Band, violates Subsection 7.03(a) of this Code shall be liable for a civil fine of not less than \$100.00 or more than \$500.00.

Section 7.04 Hunting Supervision

(a) A Citizen Child shall not, and a parent or legal guardian of a Citizen Child, shall not permit or allow a Citizen Child to, Hunt Game within Trust Land or Fee Land under the authority of any Band License issued under Section 7.02, except as permitted below:

(1) If the Band License is a Junior Hunting License, a parent, legal guardian, or another person who is at least 18 years of age, and is authorized by a parent or legal guardian, shall Accompany the Citizen Child. Notwithstanding Subsection 3.03(a)(1) of this Code, the parent, guardian, or other person who Accompanies the Citizen Child shall Possess all Licenses required under this Code to Hunt the subject Game.

(2) If the Band License is a Junior Apprentice Hunting License, then a parent, guardian, or another person who is at least twenty-one (21) years, and is authorized by a parent or guardian, shall Accompany the Citizen Child. Notwithstanding Subsection 3.03(a)(1) of this Code, the parent, guardian, or other person who Accompanies the Citizen Child shall Possess all Licenses required under this Code to Hunt the subject Game.

(3) If the Band License is a Mentored Youth Hunting License, the Citizen Child may Hunt with an adult mentor, provided that:

(A) An adult mentor shall be at least twenty-one (21) years of age;

(B) An adult mentor must be a parent or legal guardian or another person authorized by a parent or legal guardian to serve as an adult mentor;

(C) The adult mentor shall demonstrate proof of previous Hunting experience in the form of a previous hunting license, other than an apprentice license, or a certificate of completion in hunter safety training issued to the individual by a State, a province of Canada, or another country;

(D) Notwithstanding Subsection 3.03(a)(1) of this Code, the adult mentor shall Possess all Licenses required under this Code to Hunt the subject Game;

(E) An adult mentor and mentored youth(s) shall Possess no more than a total of two (2) Hunting Devices;

(F) An adult mentor shall maintain no more than an arm's length distance from a mentored youth at all times when the mentored youth is in Possession of a Hunting Device;

(G) An adult mentor shall not mentor more than two (2) mentored youths at the same time;

(H) An adult mentor shall ensure that any Hunting Device Possessed by the mentored youth is sized appropriately to fit the physical abilities of the mentored youth;

(I) A mentored youth may Hunt with an adult mentor, but at the request of an Enforcement Officer, the mentored youth must successfully demonstrate the operation of their Hunting Device's safety features; and

(J) Any adult who causes or allows any Citizen Child, including without limitation, a mentored youth to engage in conduct which violates Band Law may be punishable as the principal offender, provided that nothing in this Code shall negate or diminish the responsibility of a parent or legal guardian under Applicable Law.

(b) A Citizen Child who is less than fourteen (14) years of age shall not, and a person shall not permit or allow such a Citizen Child to, Hunt deer within Trust Land and Fee Land with a Hunting Device other than a Bow or Crossbow, provided if the Citizen Child possesses a Junior Hunting License, then the Citizen Child may use a Firearm to Hunt deer subject to, and in accordance with, Applicable Law.

(c) A person who, within the jurisdiction of the Band, violates Section 7.04 of this Code shall be liable for a civil fine of not less than \$250.00 or more than \$1,000.00.

Section 7.05 Compliance

(a) Sections 7.02 and 7.04 are based on Michigan Law and not Indiana Law. The eligibility requirements for Citizen Children to engage in Natural Resource Activities within the State of Indiana are not identical to the State of Michigan. A Citizen Child who will engage in Natural Resource Activities within Fee Land must comply with State Law, including without limitation, obtaining all required State Licenses.

(b) Where compliance with State Law is required under this Code, a parent, legal guardian or other person authorized by the parent or legal guardian to Accompany a Citizen Child and the Citizen Child are responsible for such compliance. Specifically, a Band License shall not authorize a Citizen Child to engage in any conduct within Fee Land which is prohibited under State Law.

(c) In the event of any conflict between Band Law and State Law in connection with Natural Resource Activities occurring within Fee Land, a Citizen Child shall, and a parent, legal guardian or other person authorized by the parent or legal guardian to Accompany a Citizen

Child shall ensure that the Citizen Child complies with State Law, unless Band Law is more restrictive than State Law in which case Band Law shall control.

CHAPTER 8 SPECIAL PERMITS

Section 8.01 Nuisance Control Permit

(a) The Department may issue a Nuisance Control Permit to a Citizen or Non-Citizen Spouse to Hunt or Trap Wild Animals to prevent or control damage and nuisance caused by the Wild Animals within Trust Land or Fee Land, provided that during Open Season for deer, deer may be taken under a Nuisance Control Permit only if the Department determines that deer have caused damage to emerging, standing, or harvesting crops or feed stored in accordance with normal agricultural practices.

(b) If the Department receives a request for a Nuisance Control Permit, the Department shall, within ten (10) business days after receiving the request, determine whether a Nuisance Control Permit should be issued and inform the Citizen or Non-Citizen Spouse of the Department's decision. If the request for a Nuisance Control Permit is denied, the Department shall advise the applicant on other techniques for controlling or preventing damage caused by Wild Animals.

(c) Any Nuisance Control Permit shall be subject to such limitations and requirements as the Department deems necessary or appropriate. A Citizen or Non-Citizen Spouse who receives a Nuisance Control Permit shall promptly report to the Department whether any Wild Animals were killed or trapped.

(d) Citizens and Non-Citizen Spouses who obtain a Nuisance Control Permit may also be required to obtain a State License as set forth in Chapter 4 of this Code and, consistent with Section 4.04 of this Code, Citizens and Non-Citizen Spouses who seek to engage in activities within Fee Land under a Nuisance Control Permit must comply with State Law, unless Band Law is more restrictive, in which case Band Law will control.

(e) A person who, within the jurisdiction of the Band, violates Subsection 8.01(c) of this Code shall be liable for a civil fine of not less than \$100.00 or more than \$1,000.00.

Section 8.02 Disabled Hunter Permit

(a) The Department may issue a Disabled Hunter Permit to a Citizen or Non-Citizen Spouse who is unable to walk because the person is a paraplegic or an amputee or because of a disease or injury that has resulted in the person having a Permanent Disability, which shall authorize the person to Hunt Game within Hunting Units during the Open Season for that Game, including deer of either sex, from or upon a standing Vehicle if that person holds a Band License to Hunt that Game issued under this Code and complies with all Applicable Law for Hunting of Game.

(b) The Department may issue a Disabled Hunter Permit to a Citizen or Non-Citizen Spouse with a Permanent Disability, who has full use of only one (1) arm, and who upon investigation is unable to hold, aim, and shoot a Bow, which shall authorize the person to Hunt Game within Hunting Units during the Open Season for that Game with a Bow that has been modified so that the Bow may be held, aimed, and shot with one (1) arm, if that person holds a Band License to Hunt that Game issued under this Code and complies with all Applicable Laws for Hunting of Game.

(c) Citizens and Non-Citizen Spouses who obtain a Disabled Hunter Permit may also be required to obtain a State License as set forth in Chapter 4 of this Code and, consistent with Section 4.04 of this Code, Citizens and Non-Citizen Spouses who seek to engage in activities within Fee Land under a Disabled Hunter Permit must comply with State Law, unless Band Law is more restrictive, in which case Band Law will control.

Section 8.03 Traditional Use Permit

(a) The Department may issue a Traditional Use Permit to engage in Natural Resource Activities in connection with a Traditional Use, provided:

(1) Only a Citizen may be issued a Traditional Use Permit;

(2) Hunting and Gathering under a Traditional Use Permit shall only occur within Hunting Units and Gathering Units located within Trust Land; and

(3) Hunting and Gathering under a Traditional Use Permit shall be in accordance with the requirements of Applicable Law and any requirements and limitations listed on the Traditional Use Permit.

(b) The Department shall consult with the Department of Language and Culture to determine whether a request for a Traditional Use Permit qualifies as a Traditional Use, and such determination by the Department of Language and Culture shall be final and not subject to appeal.

Section 8.04 Firewood Use Permit

(a) The Department may issue a Firewood Use Permit to a Citizen or Non-Citizen Spouse to Gather firewood, provided that:

(1) A household shall not be issued more than one (1) Firewood Use Permit each License year; and

(2) Consistent with Subsection 3.02(c) of this Code, a Firewood Use Permit shall not be issued to a Non-Citizen Spouse, who is non-Indian, to Gather firewood within Trust Land.

(b) A Firewood Use Permit shall authorize the Citizen or Non-Citizen Spouse to Gather dead or downed trees as firewood from within the applicable Gathering Units. Before Gathering any standing tree, a Citizen or Non-Citizen Spouse shall confirm that the tree is dead, as evidenced by a lack of leaves, dead limbs, and bark that is brittle or falling off.

(c) A person shall not Buy or Sell firewood Gathered from Trust Land or Fee Land.

(d) A person who, within the jurisdiction of the Band, violates Subsection 8.04(b) of this Code shall be liable for a civil fine of not less than \$100.00 or more than \$500.00.

(e) A person who, within the jurisdiction of the Band, violates Subsection 8.04(c) of this Code by Selling firewood Gathered from Trust Land or Fee Land shall be liable for a civil fine of not less than \$250.00 or more than \$1,000.00.

(f) Any person who, within the jurisdiction of the Band, violates Subsection 8.04(c) of this Code by Buying firewood which the person knows or reasonably should know was Gathered from Trust Land or Fee Land shall be liable for a civil fine of not less than \$100.00 or more than \$500.00.

Section 8.05 ORV Use Permit

(a) The Department may issue an ORV Use Permit to any Citizen or Non-Citizen Spouse who is an Elder, a Disabled Person or has a Permanent Disability.

(b) Any Citizen or Non-Citizen Spouse with a valid ORV Use Permit may:

(1) Possess or Transport a Firearm in or upon an ORV if the Firearm is Unloaded and the ORV is operated at a speed of not greater than ten (10) miles per hour; and

(2) Possess a loaded Firearm and discharge that Firearm to take Game from in or upon an ORV, if the ORV is not moving.

(c) Any Citizen or Non-Citizen Spouse with a valid ORV Use Permit who is engaging in Natural Resource Activities within Trust Land or Fee Land may utilize an ORV, provided that:

(1) The ORV shall be operated only on existing trails, provided that an ORV may be operated off existing trails on the most direct route to and from the Hunting location and to retrieve Game;

(2) The ORV shall be operated in a manner to avoid damage or injury to land and Wild Plants;

(3) The ORV shall be operated in a safe, respectful, courteous and lawful manner and in accordance with all Applicable Laws;

(4) The overall width of the ORV shall be less than 55 inches;

(5) The ORV shall not be operated on a public highway or public road designed for automobile traffic, provided that a Citizen or Non-Citizen Spouse with an ORV Use Permit may cross a public road at a right angle after coming to a complete stop;

(6) No passenger shall be transported in or upon an ORV unless the manufacturing standards for the ORV make provisions for transporting passengers; and

(7) All ORV operators and passengers who are: (A) less than sixteen (16) years of age; or (B) sixteen (16) years of age or seventeen (17) years of age and don't have consent from their parent or legal guardian to ride without a crash helmet, shall wear a crash helmet and protective eyewear that are approved by the U.S. Department of Transportation, at all times while the ORV is being operated, provided that a crash helmet shall not be required for an individual who wears a properly adjusted and fastened safety belt if the ORV is equipped with a roof that meets or exceeds U.S. Department of Transportation standards for a crash helmet.

(d) The Department may demand proof of eligibility under this Section 8.05. A person shall Possess, and exhibit upon demand of an Enforcement Officer, an ORV Use Permit while using an ORV within Trust Land or Fee Land.

(e) Except as otherwise provided in this Section 8.05, unless otherwise authorized by the Tribal Council, the use of an ORV within Trust Land or Fee Land is prohibited.

(f) Citizens and Non-Citizen Spouses who obtain an ORV Use Permit may also be required to obtain a State License as set forth in Chapter 4 of this Code and, consistent with Section 4.04 of this Code, Citizens and Non-Citizen Spouses who seek to engage in activities within Fee Land under an ORV Use Permit must comply with State Law, unless Band Law is more restrictive, in which case Band Law shall control.

(g) Any operation of an ORV within Trust Land or Fee Land shall also be in accordance with all licensing and use requirements and restrictions imposed under Applicable Law.

(h) A person who, within the jurisdiction of the Band, violates Subsection 8.05(b) of this Code shall be liable for a civil fine of not less than \$400.00 or more than \$2,000.00.

(i) A person who, within the jurisdiction of the Band, violates Subsection 8.05(c), 8.05(d), or 8.05(e) of this Code shall be liable for a civil fine of not less than \$100.00 or more than \$500.00.

CHAPTER 9 ENFORCEMENT

Section 9.01 Enforcement of Band Law

The Police Department and any Band Enforcement Officer shall:

(a) Enforce within the jurisdiction of the Band all Band Law for the management, protection, propagation, or preservation of Natural Resources, including without limitation, this Code.

(b) Present to the Band's Prosecutor for possible prosecution, or cause a civil citation to be issued to, any person who violates Band Law within the jurisdiction of the Band.

(c) Nothing in this Section is intended to, or shall, waive, diminish or alter any authority granted to the Police Department under any Applicable Law.

Section 9.02 Seizure of Property

(a) Whenever a Band Enforcement Officer has probable cause to believe that any Applicable Law has been or is being violated within the jurisdiction of the Band by any particular person, the Band Enforcement Officer may seize and take possession of all Hunting Devices, Fishing Devices, Vehicles, other property of any kind and any Natural Resources, which have been Hunted, Gathered, Possessed or Transported, or used in connection with such activities, at any time, in any manner, or for any purpose, within the jurisdiction of the Band contrary to Applicable Law, and the seizure may be made without a warrant.

(b) All Hunting Devices, Fishing Devices, Vehicles, other property of any kind and any Natural Resources seized by a Band Enforcement Officer shall be turned over to the Police Department to be held by the Police Department until order of the Tribal Court under Subsection 9.03(1) of this Code.

Section 9.03 Confiscation

(a) The Tribal Court shall have jurisdiction to determine whether any property seized within the jurisdiction of the Band under this Chapter shall be confiscated under this Section.

(b) To confiscate seized property, the Band's Prosecutor shall file a verified complaint in the Tribal Court within ninety (90) calendar days of the seizure, which complaint shall identify the owner of the property, if known, and set forth the kind of property seized, the time and place of the seizure, the reasons for the seizure, and a demand for the property's confiscation.

(c) When a complaint is filed in the Tribal Court, the Tribal Court shall issue a summons, signed by the judge or the Tribal Court clerk. The Tribal Court shall retain a copy of the executed summons and immediately return the original of the executed summons to the Band's Prosecutor.

(d) After the Tribal Court issues the summons, the Band's Prosecutor shall cause the owner of the property to be served with the summons and a copy of the complaint along with all other documents filed with the Tribal Court by:

(1) Causing the summons and copy of the complaint to be delivered to the owner of the property personally; or

(2) Sending the summons and copy of the complaint by registered or certified mail, return receipt requested, and delivery restricted to the addressee, with service being made when the owner of the property acknowledges receipt.

(e) Proof of service must be filed with the Tribal Court indicating the date of service and, in the case of service under Subsection 9.03(d)(2), a copy of the return receipt signed by the owner of the property must be attached to the proof of service.

(f) On a showing that the owner of the property is not known or cannot be found, the Tribal Court may, by order, permit service of process to be made in any other manner reasonably calculated to give the owner of the property actual notice of the proceedings and an opportunity to be heard.

(g) Process may be served by any legally competent adult who is not a party to the action, and proof of service may be made by affidavit, made before a notary public, stating the means of service made by such person as provided in this Section.

(h) The owner of the property shall file an answer with the Tribal Court, or take other action permitted by Band law or Tribal Court rules, within twenty-one (21) calendar days after being served with the summons and a copy of the complaint.

(i) The Defendant shall cause the Band's Prosecutor to be served with the answer in the manner provided under Subsection 9.03(d) of this Code and shall cause proof of service to be filed with the Tribal Court in accordance with Subsection 9.03(e) of this Code.

(j) At the hearing on the complaint, the Band shall bear the burden of proof and the standard of proof shall be by a preponderance of the evidence.

(k) The Tribal Court shall not enter an order confiscating property as a matter of course on the default of the owner of the property because of failure to timely answer or appear at the hearing, but rather the Tribal Court shall hear each such case in open court on proofs taken, provided that if the owner of the property signs a property release, a Tribal Court proceeding shall not be necessary.

(l) Upon the hearing on the complaint:

(1) If the Tribal Court determines that the property mentioned in the petition was Hunted, Gathered, Possessed or Transported, or used in connection with such activities, at any time, in any manner, or for any purpose within the jurisdiction of the Band contrary to Applicable Law, either by the owner or by a person lawfully in possession of the property with the knowledge of the owner, an order may be made confiscating the property and directing its sale or other disposal by the Department; or

(2) If the Tribal Court determines that the property was not Hunted, Gathered, Possessed or Transported, or used in connection with such activities, at any time, in any manner, or for any purpose within the jurisdiction of the Band contrary to Applicable Law, either by the owner or by a person lawfully in possession of the property with the knowledge of the owner, the Tribal Court shall order the Police Department to return the property immediately to its owner.

(m) When property is confiscated under this Section, the Department may retain the property for official use or may sell the property, provided that the Department shall destroy any property that is required to be destroyed under Applicable Law or which the Department deems harmful to the public. The proceeds from any sale shall be paid into the Band treasury and directed towards preservation and protection of Natural Resources.

(n) Confiscation of property encumbered by a bona fide security interest shall be subject to the interest of any secured party who neither had knowledge of nor consented to the violation of Applicable Law.

CHAPTER 10 VIOLATIONS AND PENALTIES

Section 10.01 Violations

(a) A person, within the jurisdiction of the Band, shall not violate or fail to comply with any provision of this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Order, any Protection Order, or any State Law incorporated into, or adopted under or in accordance with, this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Order or any Protection Order.

(b) In accordance with Subsection 1(C) of the Code of Offenses, any violation of any provision of this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Order, any Protection Order, or any State Law incorporated into, or adopted under or in accordance with, this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Order or any Protection Order shall constitute an "Offense" under the Code of Offenses.

Section 10.02 Penalties

(a) A person who, within the jurisdiction of the Band, violates this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Order, any Protection Order, or any State Law incorporated into, or adopted under or in accordance with, this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Order or any Protection Order, for which violation a penalty is not otherwise provided for under Band Law, shall be liable for a maximum civil fine of \$5,000.00, provided that in determining the amount of any civil fine, the Tribal Court, subject to a maximum civil fine of \$5,000.00, shall be guided by the applicable minimum and maximum fines imposed under State Law multiplied by a factor of two (2) to reflect the classification under this Code of such violation as a civil infraction rather than a criminal act.

(b) A civil fine imposed or accruing under Band Law pursuant to this Code may be recovered in a civil action brought in the Tribal Court and all such civil fines shall be cumulative. A suit for the recovery of one civil fine shall not bar or affect the recovery of any other civil fine, judgment, penalty, forfeiture, restitution, or damages, nor bar the power of the Tribal Court to punish for contempt or any criminal prosecution.

(c) Any Indian who, within the jurisdiction of the Band, commits any of the following violations of this Code shall be guilty of a crime and shall be subject to a fine and imprisonment as set forth below:

(1) Possesses or Transports a Firearm while under the influence of a controlled substance or alcohol or a combination of a controlled substance and alcohol shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$100.00 or more than \$500.00, or both;

(2) Hunts any Game with any weapon other than the applicable Hunting Device permitted under Applicable Law shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$50.00 or more than \$500.00, or both;

(3) Hunts any Game from a Vehicle in violation of Applicable Law shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$200.00 or more than \$1,000.00, or both;

(4) Uses artificial light to Hunt or locate Game while in possession of a Hunting Device in violation of Applicable Law shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$100.00 or more than \$500.00, or both;

(5) Hunts before or after legal Hunting hours in violation of Applicable Law shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$100.00 or more than \$500.00, or both;

(6) Traps, captures, catches, kills, takes or Possesses Fish in excess of a Bag Limit or outside of the applicable Open Season established under Applicable Law shall be subject to

imprisonment for not more than thirty (30) days, or a fine of not less than \$50.00 or more than \$200.00, or both;

(7) Traps, captures, catches, kills, takes or Possesses any Game other than a deer in excess of a Bag Limit or outside of the applicable Open Season established under Applicable Law shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$200.00 or more than \$1,000.00, or both;

(8) Traps, captures, catches, kills, takes or Possesses any deer in excess of a Bag Limit or outside of the applicable Open Season established under Applicable Law shall be subject to imprisonment for not more than one hundred eighty (180) days, or a fine of not less than \$200.00 or more than \$1,000.00, or both;

(9) Violates any Protection Order shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$200.00 or more than \$1,000.00, or both;

(10) Violates any Closure Order shall be subject to imprisonment for not more than thirty (30) days, or a fine of not less than \$100.00 or more than \$1,000.00, or both;

(11) Fails to make a reasonable attempt to retrieve Game that the person has killed shall be subject to imprisonment for not less than thirty (30) days, or a fine of not less than \$100.00 or more than \$1,000.00, or both; or

(12) Fails to salvage for human consumption the edible meat of Game that the person has killed after the person has retrieved the Game shall be subject to imprisonment for not more than ninety (90) days, or a fine of not less than \$200.00 or more than \$1,000.00, or both.

(d) Any non-Indian who commits any of the violations specified in Subsection 10.02(c) of this Code, shall be liable for a civil fine in accordance with the above, subject however, to an increase in penalty in accordance with Subsection 10.02(a) of this Code.

Section 10.03 Restitution

(a) In addition to any other penalties set forth in or permitted under this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Orders or any Protection Orders, any person convicted of, or found responsible for, any violation involving the killing, Possessing, or Transporting Wild Animals, or any part thereof, within the jurisdiction of the Band, shall reimburse the Band for the value of the Wild Animals, as determined by the Tribal Court, provided that in determining any such value, the Tribal Court shall be guided by the applicable restitution imposed under State Law.

(b) In addition to the above penalties, any person convicted of any violation of this Code, the Rules and Regulations, any Emergency Rules and Regulations, any Closure Orders or any Protection Orders involving Gathering of Wild Plants or Minerals within the jurisdiction of the Band shall reimburse the Band for the value of the Wild Plants and Minerals, as determined by the Tribal Court.

Section 10.04 Revocation and Referral

(a) If a Citizen or Non-Citizen Spouse is convicted of, or found responsible for, any violation of this Code or the Rules and Regulations, any Emergency Rules and Regulations, any Closure Orders or any Protection Orders, the Court may revoke all Band Licenses for up to one (1) year, provided that if the violation involves illegal killing, Possessing, or Transporting Wild Animals, or any part thereof, the Court shall revoke all Band Licenses for one (1) year, and the Citizen or Non-Citizen Spouse shall not secure or possess any Band License to engage in Hunting or Fishing for an additional one (1) calendar year from the date of conviction or judgment, provided that for a second or subsequent offense, the Citizen or Non-Citizen Spouse shall not secure or possess any such Band License for an additional three (3) calendar years from the date of conviction or judgment.

(b) If a person violates State Law or Federal Law within the jurisdiction of the Band, the matter may be referred to State or federal authorities for prosecution.

Section 10.05 License Agreement

(a) In addition to other penalties available under Applicable Law, if a Citizen or Non-Citizen Spouse violates the License Agreement, the Band may file a civil action in Tribal Court against the Citizen, Non-Citizen Spouse or parent or legal guardian of the Citizen Child.

(b) Upon the filing of a civil action under this Section, the Tribal Court shall suspend all Band Licenses for the duration of the civil action.

(c) In a civil action filed under this Section, the Band may seek any relief available under law or equity, including without limitation, liquidated damages set forth in the License Agreement and shall be entitled to attorney fees and litigation costs if the Band prevails in any such civil action.

Section 10.06 Official Duties

The provisions of this Code are not intended, and shall not apply to employees, representatives or consultants of the Band or Enforcement Officers in the performance of their official duties, provided that such persons must comply with all other Applicable Law, including without limitation, Federal Law.

LEGISLATIVE HISTORY

Pokagon Band Hunting and Gathering Code, enacted November 24, 2014 by Res. No. 14-11-24-07; amended February 16, 2015 by Res. No. 15-02-16-01; amended June 20, 2016 by Res. No. 16-06-20-02; amended June 27, 2019 by Res. No. 19-06-27-01.