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GRAND PORTAGE BAND OF CHIPPEWA
CONSERVATION CODE

TITLE I. GENERAL PROVISIONS

Section 1. Constitutional Authority

The Grand Portage Band of Chippewa has the inherent sovereign power to enact laws to further the welfare of its Members. The Reservation Tribal Council of the Grand Portage Band of Chippewa is further delegated authority under Article VI, Section 1(c) of the Minnesota Chippewa Constitution to manage tribal lands and other tribal assets for the benefit of the Band and under Article VI, Section 1(d) to impose fees on non-members by ordinance.

Section 2 Reservation Tribal Council's Statement of Findings and Declaration of Purpose and Policy

2.1 The Reservation Tribal Council finds that Grand Portage Band of Chippewa Members will benefit from written regulations governing the exercise of hunting, fishing and trapping. To ensure an orderly system for control and regulation of hunting, fishing and trapping within the boundaries of the Grand Portage Band of Chippewa Reservation by Members and non-members and to promote public health and safety, and conservation and management of fish and wildlife populations within the boundaries of the Grand Portage Band of Chippewa Reservation by Members and non-members, the Reservation Tribal Council finds it necessary to enact regulations governing hunting, fishing and trapping within the boundaries of the Grand Portage Band of Chippewa Reservation.

2.2 The Reservation Tribal Council declares it to be its purpose and policy, through the exercise of its power to regulate commerce within the boundaries of the Grand Portage Band of Chippewa Reservation, to provide for the general welfare, to promote public health and safety and the conservation and management of fish and wildlife populations within the boundaries of the Grand Portage Band of Chippewa Reservation, and on all lands and waters subject to the governmental powers of the Band and not otherwise exempt from regulation under this Code, by prescribing regulations and procedures for governing hunting, fishing and trapping within the boundaries of the Grand Portage Band of Chippewa Reservation.

Section 3. Jurisdiction

This Code shall apply to all persons, Members and non-members, unless otherwise indicated, hunting, fishing or trapping within the boundaries of the Grand Portage Band of Chippewa Reservation, or other lands or waters subject to the governmental powers of the Band and not otherwise exempt from regulation under this Code, or who are alleged to have violated provisions of this Code, provided that the action or violation occurs within the boundaries of the Grand Portage Band of Chippewa Reservation, including all lands, islands, waters, roads, and bridges or any interests therein, whether trust or non-trust status and notwithstanding the issuance of any patent or right-of-way, within the boundaries of the Reservation, and adjacent waters of Lake Superior, and such other lands, islands, waters or any interest therein hereafter added to the Reservation. Nothing in this Code shall be construed as extending jurisdiction over that area within the jurisdiction of the 1854 Authority.

Section 4. No Waiver of Sovereign Immunity

Nothing in this Code shall mean or be construed to provide a waiver of the Band's sovereign immunity from suit or a waiver of the sovereign immunity from suit of any of its governmental officers' and/or agents', except to the limited extent any such waiver is explicitly and unequivocally expressed herein.

Section 5. Use of Language from Other Laws

Inclusion of language, definitions, procedure, or other statutory or administrative provisions of other Tribal jurisdictions, the State of Minnesota, Federal administrative agencies, or other state or federal entities in the Grand Portage Band of Chippewa Hunting, Fishing and Trapping Code shall not be deemed an adoption of that law by the Grand Portage Band of Chippewa and shall not be deemed an action deferring to state or federal jurisdiction or another tribe's jurisdiction by the Grand Portage Band of Chippewa where such tribal, state or federal jurisdiction is concurrent or does not otherwise exist.

Section 6. Effective Date

This Code is effective on the date of approval by a majority vote of the Reservation Tribal Council at a duly organized meeting with a quorum voting.

Section 7. Repeal of Inconsistent Band Codes and Prior Codes

All prior laws, Ordinances or Codes governing or regulating hunting, fishing or trapping within the boundaries of the Grand Portage Band of Chippewa Reservation are hereby repealed. To the extent that this Code imposes restrictions greater than those contained in any other Band Code, Ordinance, Law or Resolution, the provisions of this Code shall govern.

Section 8. Amendments

This Code may be amended by the Reservation Tribal Council.

Section 9. Severability

If any clause, sentence, paragraph, Section, or part of this Code shall, for any reason, be adjudicated by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, Section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

Section 10. Definitions

Whenever used in this Code, the following terms shall mean:

- 10.1 "Arrow" shall include both fishing arrows and hunting arrows and the standards for each shall be established by the Conservation Department.
- 10.2 "Attended Line" shall mean a line used for taking fish that is within sight of the person who set the line.
- 10.3 "Band" shall refer to the Grand Portage Band of Chippewa of the Grand Portage Band of Chippewa Reservation.
- 10.4 "Band Member" shall mean an Indian who is duly enrolled in the Grand Portage Band of Lake Superior Chippewa.
- 10.5 "Big Game" shall mean deer, bear and, moose.
- 10.6 "Blaze Orange" means the clothing worn during certain specified seasons and shall include the camouflaged pattern of at least 50% blaze orange within each square foot.
- 10.7 "Bow" shall mean any hunting instrument designed for the purpose of propelling arrows and which is drawn and held by and through the efforts of the person releasing the arrows.
- 10.8 "Commercial Fishing Permit" shall mean a card issued by the Conservation Department to a member of the Grand Portage Band of Chippewa Indians, which Permit authorizes such member to take either fish or wildlife, as specified, for commercial purposes in accordance with the provisions of this Code.
- 10.9 "Commercial Purposes" shall mean the taking of fish, game or furbearing animals or parts thereof for barter or sale.
- 10.10 "Conservation" shall mean the protection and management of fish and wildlife in their natural habitats in a manner intended to achieve a sustained harvestable surplus.
- 10.11 "Conservation Department" shall mean the Conservation Department charged with administering and enforcing this Code.
- 10.12 "Conservation Officer" shall mean a Conservation Officer duly employed by the Conservation Department.
- 10.13 "Cub" shall mean all bear that were born within the last twelve (12) months from that particular day.
- 10.14 "Daily Bag Limit" shall mean a continuous twenty-four (24) hour period consistent with the nature of the harvest activity involved.
- 10.15 "Dip Net" shall mean a piece of netting suspended from a round or square frame.
- 10.16 "Disabled or Handicapped" shall mean a person with a permanent or temporary physical impairment, established by medical evidence and verified by a licensed physician.
- 10.17 "Elderly" shall mean those Band Members over the age of fifty five (55).
- 10.18 "Fawn" shall mean all deer that were born within the last twelve (12) months from that particular day.
- 10.19 "Firearm" shall mean a device that, through a mechanical release by the operator, ignites confined powder charge that propels a projectile or projectiles through and out of a metal tube.

- 10.20 "Firearm Safety Certificate" shall mean a valid certificate issued by a fully authorized Band or State Program.
- 10.21 "Fishing" shall mean the taking of fish by hook and line or by bow and arrow.
- 10.22 "Fish Trap" shall mean a device constructed of netting that employs a frame and/or wings or leads the direct fish movement into and through a funnel of netting at the trap's opening, wherein the fish are trapped by their own movement.
- 10.23 "Fish and Wildlife" or "Fish or Wildlife" shall mean all living creatures; not human, wild by nature and endowed with sensation and power of voluntary motion which includes mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks. Fish and wildlife also includes plants.
- 10.24 "Fishing Permit" shall mean a card issued by the Conservation Department to a person, which Permit authorizes such person to fish in accordance with the provisions of this Code.
- 10.25 "Freshly Taken" shall mean fish, game or game birds harvested on that particular day.
- 10.26 "Furbearing Animals" shall mean mammals that are protected wild animals except big game.
- 10.27 "Game" shall mean big game and small game.
- 10.28 "Game Birds" shall mean migratory, waterfowl, pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, chukar partridge, gray partridge, quail, turkeys, coots, gallinules, sora and Virginia rails, American woodcock and common snipe.
- 10.29 "Game Fish" shall mean walleye; sauger; yellow perch; Lake whitefish; Members of the pike family: Esocidae, including northern pike; smallmouth bass, and rock bass Members of the temperate bass family; Members of the salmon and trout subfamily: Salmoninae, including Atlantic salmon, chinook salmon, coho salmon, pink salmon, kokanee salmon, lake trout, brook trout, rainbow (steelhead) trout and splake; and Members of the sturgeon family: Acipenseridae, including lake sturgeon and shovelnose sturgeon. Game fish includes hybrids of game fish.
- 10.30 "Gathering" Shall mean the taking or harvesting of plants.
- 10.31 "Gill Net" shall mean any net set to take fish by entanglement rather than entrapment.
- 10.32 "Grand Portage Code" Shall mean a Conservation Code enacted by the Grand Portage Band regulating fishing in the Grand Portage Zone. The Grand Portage Code shall incorporate by reference the 1854 Authority Code.
- 10.33 "Grand Portage Zone" Shall mean the area in the Minnesota waters of Lake Superior bounded by a line as follows: beginning at the mouth of the Reservation River, thence south to the Minnesota boundary in Lake Superior, thence northeastward along such Minnesota boundary to the Canadian boundary in Lake Superior, thence southwestward along the shore of Lake Superior to the point of beginning.
- 10.34 "Guardian" shall mean a legal guardian or any person eighteen (18) years of age or older who is authorized by the parent or legal guardian to supervise a person under the age of sixteen (16).
- 10.35 "Hunt, Fish or Trap" or "Hunting, Fishing or Trapping" shall mean taking or attempting to take, by any means, any wild animal.
- 10.36 "Hunting Permit" shall mean a card issued by the Conservation Department to a person, which Permit authorizes such person to hunt in accordance with the provisions of this Code.
- 10.37 "Hunting Party" shall mean any group of two or more persons holding Hunting Permits issued by the Conservation Department, all of whom are afield hunting together at the same time, for the purpose of taking game.
- 10.38 "Migratory Birds" mean any kind described in the Migratory Bird Act, 16 U.S.C. § 703 et seq., as hereafter amended, or at 50 C.F.R. 10, as hereafter amended. This includes woodcock, sora rail, Virginia rail, Wilson's or jacksnipe, cookit, gallinule, and waterfowl. "Waterfowl" includes any duck or goose.
- 10.39 "Migratory Waterfowl" shall mean brant, ducks, geese and swans.

10.40 "Minnow" shall mean:

- 10.40.1 Members of the minnow family, Cyprinidae, except carp, and goldfish;
- 10.40.2 Members of the mud minnow family, Umbridae;
- 10.40.3 Members of the sucker family, Catostomidae, not over 12 inches in length;
- 10.40.4 bullheads, ciscoes, lake whitefish, goldeyes and mooneyes, not over 7 inches in length; and
- 10.40.5 leeches.

10.41 "Motorboat" shall mean any boat equipped with propulsion machinery, whether or not the machinery is the principal source of its propulsion.

10.42 "Motor Vehicle" shall mean a self-propelled vehicle or a vehicle propelled or drawn by a self-propelled vehicle that is operated on a highway, on a railroad track, on the ground, in the water or in the air.

10.43 "Netting" shall mean taking fish by seine, trap, gill net, hoop net, cast net or hand-held dip net.

10.44 "Non-Game Fish" shall mean burbot, carp, sucker, and other fish not defined as Game Fish.

10.45 "North Shore Streams" shall mean those rivers and streams on the Grand Portage Reservation that flow directly into Lake Superior.

10.46 "Open Water" shall mean water that is free of ice.

10.47 "Personal Use" shall mean the taking of fish, game or fur bearing animals for subsistence or sport purposes or for any purpose other than commercial purposes.

10.48 "Possession" shall mean both actual and constructive possession and control of the things referred to.

10.49 "Predator" shall mean a timber wolf, coyote, fox, lynx or bobcat.

10.50 "Prohibited Means of Taking" includes, but is not limited to, poison arrows, illegal firearms, set guns, swivel guns and fully automatic rifles, silencers for rifles and shotguns or handguns.

10.51 "Protected Birds" shall mean all birds except unprotected birds.

10.52 "Protected Wild Animals" shall mean the following wild animals: big game; small game; game fish; minnows; leeches; alewives; ciscoes; chubs; the subfamily Coregoninae; rainbow smelt; frogs; turtles; clams; mussels; timber wolf; mourning doves and wild animals that are protected by a restriction in the time or manner of taking, other than a restriction in the use of artificial lights, poison or motor vehicles.

10.53 "Public Roadway" shall mean a road and the right-of-way thereof, located within the Grand Portage Band of Chippewa Reservation, which is regularly maintained for public use, and shall include banks, ditches and shoulders.

10.54 "Public Waters" shall mean all waters and woodlands within the Grand Portage Band of Chippewa Reservation.

10.55 "Reservation" shall mean the Grand Portage Band of Chippewa Reservation including all lands, islands, waters, roads, and bridges or any interests therein, whether trust or non-trust status and notwithstanding the issuance of any patent or right-of-way, within the boundaries of the Reservation, and adjacent waters of Lake Superior, and such other lands, islands, waters or any interest therein hereafter added to the Reservation.

10.56 "Reservation Tribal Council" shall mean the duly constituted governing body of the Grand Portage Band of Chippewa Reservation.

10.57 "Sale" shall mean an exchange for consideration and includes barter, offer to sell and possession with intent to sell.

10.58 "Seine" shall mean a net of mesh with floats at the top and weights at the bottom, such that it hangs vertically in the water and which is drawn through the water to capture fish by encircling them rather than entangling them.

10.59 "Shining" shall mean the use of a spotlight, headlight or other artificial light to locate or take wild animals while in possession, individually, or as one of a group of persons, of a firearm, bow and arrow or other implement that could be used to kill big game unless the firearm is unloaded; in a gun case expressly made to contain a firearm that fully encloses the firearm by being zipped, snapped, buckled, tied or otherwise fastened without any portion of the firearm exposed; in a closed trunk of a vehicle; or if the bow is completely encased or unstrung, in the closed trunk of a motor vehicle.

10.60 "Significant Part" shall mean a portion of flesh from a big game animal weighing more than ten (10) pounds.

10.61 "Small Game" shall mean snowshoe hare, cottontail rabbit, gray squirrel, ruffed grouse, spruce grouse, sharptail grouse, and other game birds, raccoon, lynx, bobcat, red fox, gray fox, fisher, pine marten, opossum, badger, cougar, wolverine, muskrat, mink, otter and beaver.

10.62 "Snagging" shall mean taking a fish, with a hook and line, by hooking a fish in a place other than the mouth.

10.63 "Snare" shall mean the taking, or attempted taking, of any wild animal by means of setting or operating any device, mechanism, or contraption that is designed, built, or made to close upon, hold fast, or otherwise capture, or take, a wild animal or animals.

10.64 "Spear" shall mean a pole tipped with a minimum of three (3) barbed tines that are a minimum of 4 1/2 inches long with each tine having a barb extending perpendicular, which is greater than 1/8 inch.

10.65 "Spearing" shall mean the taking of fish by the use of a spear.

10.66 "Spearing Permit" shall mean an I. D. card issued by the Conservation Department to Band Members, which Permit authorizes such Band Member to spear in accordance with the provisions of this Code.

10.67 "Take" or "Taking" shall mean pursuing, shooting, killing, capturing, trapping, snaring, spearing and netting wild animals, and all lesser acts such as disturbing, harrying, worrying, placing, setting, drawing, or using any net, trap or other device used to take wild animals, and includes every attempt to take and every act of assistance to any person in taking or attempting to take wild animals.

10.68 "Transport or Transportation" shall mean causing or attempting to cause wild animals to be carried or moved by a device and includes accepting or receiving wild animals for transportation or shipment.

10.69 "Trap" shall mean the taking, or attempted taking, of any wild animal by means of setting or operating any device, mechanism, or contraption that is designed, built, or made to close upon, hold fast, or otherwise capture, or take, a wild animal or animals.

10.70 "Trapping Permit" shall mean an I.D. card issued by the Conservation Department to a Band Member, which Permit authorizes such Band Member to trap in accordance with the provisions of this Code.

10.71 "Tribal Court" shall mean the Grand Portage Band of Chippewa Tribal Court, sitting as a Conservation Court, or the Reservation Tribal Council, sitting as a Traditional Forum, as established and contemplated by the laws of this Band or such body as may now or hereafter be authorized by the laws of the Band to exercise the powers and functions of a court of law.

10.72 "Trot Line" shall mean a line with multiple lines and hooks attached to it. Each trot line shall be considered one attended line.

10.73 "Unattended Line" shall mean a line used for taking fish that is not within the sight of the person who set the line.

10.74 "Under the Influence" shall mean any amount of alcohol, drugs or narcotics that in any way alters the users reaction time or ability to react.

10.75 "Unprotected Birds" shall mean English sparrow, starling and common pigeon.

10.76 "Unprotected Wild Animals" shall mean wild animals that are not protected wild animals, including weasel, coyote (brush wolf), gopher, porcupine, skunk, civet cat and unprotected birds.

10.77 "Unprotected Species" shall mean English (house) sparrows, European starlings, rock doves (common pigeons), monk parakeets, ground squirrels, woodchucks, porcupines, and all other mammals for which no closed seasons or other

protection is accorded. Unprotected animals may be taken either in the daytime or at night and in any manner except with the aid of artificial lights or by poison.

10.78 "Watercraft" shall mean any description of watercraft used, or capable of being used, as a means of transportation on water.

Section 11. Prohibited Acts

11.1 No person shall intentionally waste, injure, destroy or impair fish or wildlife or other natural resources on lands or waters subject to this Code while engaging in activities regulated by this Code. No person shall vandalize, leave or discard cans, bottles, refuse, other waste or debris on private or public property.

11.2 Allowing or possessing any Permit of another person, whether or not such person would qualify to receive such Permit, unless otherwise allowed pursuant to this Code;

11.3 Taking of any fish or wildlife protected by this Code;

11.4 Wanton destruction or waste of fish or wildlife on lands or waters subject to the governmental powers of the Grand Portage Band;

11.5 Exceeding limits established by this Code;

11.6 Using prohibited means of equipment;

11.7 Fishing, hunting or trapping outside of seasons established by the Conservation Department, or without a valid Permit as required by the Conservation Department;

11.8 Possession of any fish or game without a proper Permit;

11.9 Fraud or misrepresentation in the procurement of any Permit;

11.10 Allowing any other such person to make use of any Permit, regardless of whether or not such person would qualify to receive such a Permit.

11.11 Intentionally destroying or attempting to destroy any evidence seized or confiscated by the arresting Conservation Officer or intentionally destroying any evidence about to be seized;

11.12 Taking, assisting in the taking, possession or transportation of any fish, game or fur bearing animal prohibited by this Code;

11.13 Hunting, fishing or trapping while under the influence of alcohol, drugs or narcotics;

11.14 Chasing game with a snowmobile or any motorized vehicle;

11.15 Discharging firearms for the purpose of hunting within 500 feet of any occupied dwelling or public roadway;

11.16 Hunting of game animals by shining;

11.17 Refusal to display the proper Permit or Band I. D. card upon request of any member of the Conservation Department, the Reservation Tribal Council or any other person authorized by the Conservation Department or the Reservation Tribal Council to enforce this Code, provided such authorized person shall display proper credentials, and refusal to stop for or accept summons from such authorized person;

11.18 Setting of any trap, pit, deadfall or snare capable of taking big game is prohibited;

11.19 Placing of set guns and the use of poison for the taking of any wild animal is prohibited;

11.20 Discharging a firearm or arrow from a bow for hunting purposes from within a moving motor vehicle; and

11.21 Any other violations of the regulations contained in or enacted pursuant to this Code.

Section 12. Transportation of Fish and Wildlife -- Permit Required

Any person who takes game, fish, hides or furs within the boundaries of the Grand Portage Band of Chippewa Reservation and desires to transport or does transport such game, fish, hides or furs out of the Grand Portage Band of Chippewa Reservation must have in his or her possession a Permit issued by the Conservation Department.

Section 13. Rules and Regulations

All rules and regulations relating to the taking, possession or transportation of fish, game, fur bearing animals or game birds shall be as adopted in this Code, subject to amendment by the Reservation Tribal Council, and as supplemented as authorized herein.