

**NORTHERN CHEYENNE TRIBE  
FISH AND WILDLIFE CODE**

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## TABLE OF CONTENTS

CHAPTER 1: GENERAL PROVISIONS .....	1
Section 1.1: Title.....	1
Section 1.2: Findings .....	1
Section 1.3: Purpose.....	1
Section 1.4: Definitions .....	2
Section 1.5: Title to Fish and Wildlife.....	6
Section 1.6: Scientific Research .....	6
Section 1.7: Sovereign Immunity .....	6
Section 1.8: Interpretation.....	6
Section 1.9: Severability .....	6
Section 1.10: Repeal of Prior Laws .....	6
Section 1.11: Effective Date .....	7
CHAPTER 2: ADMINISTRATION.....	7
Section 2.1: Northern Cheyenne Department of Natural Resources .....	7
Section 2.2: Tribal Fish and Wildlife Fund .....	8
Section 2.3: Annual Regulations.....	9
Section 2.4: Special Regulations.....	11
Section 2.5: Dissemination of Regulations.....	11
Section 2.6: Closure Orders .....	12

CHAPTER 3: HUNTING, TRAPPING, AND FISHING PERMITS .....	13
Section 3.1: Permits Required.....	13
Section 3.2: Permitting Exception for Member Fishing .....	13
Section 3.3: Fish and Wildlife Permit Applications .....	13
Section 3.4: Issuance of Fish and Wildlife Permits .....	13
Section 3.5: Special Senior and Disabled Member Permits .....	15
Section 3.6: Special Research Permits.....	15
Section 3.7: Special Permits for Cultural and Religious Takings.....	16
Section 3.8: Special Permits for Taking of Stock-Killing Animals.....	16
Section 3.9: Special Permits for Taking of Tribally Protected Species .....	17
Section 3.10: Transport Permits.....	17
Section 3.11: Permit Fees .....	17
Section 3.12: Denial, Suspension, Revocation, and Conditioning of Permits .....	18
CHAPTER 4: GENERAL RESTRICTIONS .....	19
Section 4.1: Closure .....	19
Section 4.2: Violation of Regulations .....	19
Section 4.3: Possession of a Valid Permit .....	19
Section 4.4: Unlawful Procurement of Permit.....	19
Section 4.5: Possession of Valid Identification .....	19
Section 4.6: Seasons.....	20

Section 4.7: Reporting ..... 20

Section 4.8: Hunting, Trapping, or Fishing While Privileges Suspended ..... 20

Section 4.9: Commercial Use of Fish or Wildlife..... 20

Section 4.10: Waste of Fish or Wildlife..... 20

Section 4.11: Larceny of Fish or Wildlife ..... 20

Section 4.12: Use of Poisons and Explosives ..... 21

Section 4.13: Unlawful Possession or Transportation of Fish or Wildlife ..... 21

Section 4.14: Resisting an Authorized Officer ..... 21

Section 4.15: Inspections and Check Stations ..... 21

Section 4.16: False Impersonation of an Officer ..... 21

Section 4.17: Taking Fish or Wildlife on Private Lands ..... 22

Section 4.18: Tampering with Equipment of Another..... 22

Section 4.19: Endangered, Threatened, and Tribally Protected Species ..... 22

Section 4.20: Closed Areas ..... 22

Section 4.21: Introduction of Fish, Wildlife, or Plants ..... 23

Section 4.22: Accompaniment by Non-Permittees..... 23

Section 4.23: Intoxication ..... 23

Section 4.24: Defacing Signage..... 23

Section 4.25: Littering ..... 23

Section 4.26: Parental Responsibility ..... 23

Section 4.27: Harassment.....	23
Section 4.28: Violations of 18 U.S.C. § 1165.....	24
Section 4.29: Outfitters and Guides .....	24
<b>CHAPTER 5: HUNTING AND TRAPPING RESTRICTIONS .....</b>	<b>24</b>
Section 5.1: Age Restrictions for Hunting and Trapping .....	24
Section 5.2: Hunting Limits for Game Animals .....	24
Section 5.3: Firearm Restrictions.....	24
Section 5.4: Carcasses.....	25
Section 5.5: Tags.....	25
Section 5.6: Wild Birds.....	26
Section 5.7: Hunting Waterfowl .....	26
Section 5.8: Hunting Mountain Lion Kittens.....	26
Section 5.9: Use of Boats for Hunting .....	27
Section 5.10: Use of Aircraft for Hunting .....	27
Section 5.11: Use of Vehicles While Hunting .....	27
Section 5.12: Destruction of Evidence of Sex .....	27
Section 5.13: Baiting and Supplemental Feeding .....	27
Section 5.14: Accidental Shootings .....	28
Section 5.15: Artificial Lights.....	28
Section 5.16: Hunting Near Buildings and Occupied Locations .....	28

Section 5.17: Transportation of Firearms and Bows .....	28
Section 5.18: Hunting On or Near Roadways.....	28
Section 5.19: Shooting From a Vehicle .....	28
Section 5.20: Hunting Hours.....	29
Section 5.21: Use of Tracking Devices While Hunting.....	29
Section 5.22: Use of Dogs While Hunting.....	29
Section 5.23: Use of Traps and Snares .....	30
Section 5.24: Destruction, Disturbance, or Removal of Traps .....	30
Section 5.25: Trapping of Furbearers .....	30
Section 5.26: Trapping in Beavers and Muskrat Houses .....	31
<b>CHAPTER 6: FISHING RESTRICTIONS .....</b>	<b>31</b>
Section 6.1: Age Restrictions for Fishing.....	31
Section 6.2: Hook and Line Fishing .....	31
Section 6.3: Fish Traps .....	31
Section 6.4: Possession of Nets .....	31
Section 6.5: Poisons and Explosives.....	32
Section 6.6: Fishing with Archery Equipment and Firearms.....	32
Section 6.7: Chumming .....	32
<b>CHAPTER 7: ENFORCEMENT.....</b>	<b>32</b>
Section 7.1: Notice to the Public.....	32

Section 7.2: Civil Enforcement..... 33

Section 7.3: Enforcement Officers..... 33

Section 7.4: Representation of the Tribe..... 33

Section 7.5: Statute of Limitations..... 33

Section 7.6: Notice of Civil Violation ..... 33

Section 7.7: Service of Notice ..... 34

Section 7.8: Contents of Notice ..... 34

Section 7.9: Response to Notice of Violation..... 35

Section 7.10: Hearing on Notice of Civil Violation ..... 35

Section 7.11: Default Judgment..... 35

Section 7.12: Civil Damages..... 36

Section 7.13: Criminal Sanctions for Tribal Members ..... 37

Section 7.14: Seizure of Gear and Fish and Wildlife..... 38

Section 7.15: Civil Forfeiture ..... 39

## **CHAPTER 1: GENERAL PROVISIONS**

### **Section 1.1: Title**

This Code shall be known as the “Northern Cheyenne Fish and Wildlife Code”.

### **Section 1.2: Findings**

The Tribal Council of the Northern Cheyenne Tribe makes the following findings in support of this Code:

- (1) Fish and wildlife on the Northern Cheyenne Reservation are of vital importance to the Tribe and its members for spiritual, cultural, subsistence, and economic purposes.
- (2) Unregulated use of the fish and wildlife resources on the Reservation threatens the political integrity, economic security, and health and welfare of the Tribe and its members.
- (3) The Northern Cheyenne Tribe retains sovereign right to use and enjoy the Reservation and to govern its use by its members and others.
- (4) Members of the Tribe shall be afforded the greatest possible freedom to use and enjoy fish and wildlife resources on the Reservation consistent with public safety and the conservation and enhancement of these resources for future generations.
- (5) Limited use of fish and wildlife resources on the Reservation by non-members, consistent with the Tribe’s safety, conservation, and enhancement goals, may provide economic benefits to the Tribe and promote intercultural education and goodwill.

### **Section 1.3: Purpose**

This Code is enacted to establish a framework for management and conservation of fish and wildlife resources on the Reservation. Recognizing the important role that these resources play in the lives and culture of the Tribe and its members, the purposes of this Code are to:

- (1) Conserve, enhance, protect, and manage fish and wildlife populations on the Reservation at healthy and sustainable levels to ensure such resources are available to future generations for spiritual, cultural, subsistence, and economic uses.
- (2) Provide a system for the orderly governance of hunting, trapping, and fishing activities on the Reservation.
- (3) Provide a means for the Tribe to enforce its fish and wildlife laws against members and non-members who engage in hunting, trapping, or fishing on the Reservation.



- (4) Ensure that hunting, trapping, and fishing activities on the Reservation do not threaten public safety.
- (5) Allow the limited use of Reservation fish and wildlife resources by non-members for the economic benefit of the Tribe as a whole, and for the promotion of intercultural education and good will, so long as such use by non-members is consistent with the Tribe's safety, conservation, and enhancement goals.
- (6) Develop data on fish and wildlife populations on the Reservation for use by the Tribe in establishing harvest limits, making land use decisions, and making other management decisions that may impact fish and wildlife resources.

#### **Section 1.4: Definitions**

Unless context requires another meaning, the terms listed below shall have the following meanings in this Code:

- (1) "Aircraft" means any flying machine including hang gliders, fixed-wing crafts, helicopters, and remote-controlled drones.
- (2) "Angling" means the act of fishing with a rod and line.
- (3) "Authorized officer" means any Northern Cheyenne Tribe law enforcement officer, any Bureau of Indian Affairs law enforcement officer, and any other person authorized by the President and concurrence of the Tribal Council by resolution to enforce this Code.
- (4) "Big game" means elk, mule deer, whitetail deer, bighorn sheep, mountain goat, moose, black bear, antelope, mountain lion, and any other animal designated as big game in a regulation promulgated pursuant to Section 2.3.
- (5) "Carcass" means the dead body of any species of fish or wildlife or parts thereof.
- (6) "Closed season" means the period of time during which fishing or hunting wildlife is prohibited. Hunting and fishing on the Reservation is closed at all times unless expressly opened by this Code or a regulation promulgated pursuant to Section 2.3.
- (7) "Code" means this Northern Cheyenne Fish and Wildlife Code.
- (8) "Council" or "Tribal Council" means the Tribal Council of the Northern Cheyenne Tribe.
- (9) "Department" means the Northern Cheyenne Department of Natural Resources.
- (10) "Director" means the Director of the Northern Cheyenne Department of Natural Resources.
- (11) "Dog" means a domesticated canid used to hunt, scent, point, flush, or retrieve wildlife.

- (12) “Endangered or threatened species” means any species of fish, wildlife or plant designated as an endangered or threatened species by the United States Fish and Wildlife Service or the National Marine Fisheries Service.
- (13) “Fish” means a cold-blooded vertebrate animal with gills and fins and living wholly in water. When used as a verb, the term “fish” means the act of taking or attempting to take fish.
- (14) “Fishing” means the act of catching or attempting to catch any species of fish.
- (15) “Firearm” means any rifle, shotgun, handgun, muzzle loader, or other weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.
- (16) “Furbearer” and “furbearing animal” means bobcat, muskrat, mink, weasel, beaver, badger, otter, wolverine, Canadian lynx, fisher marten, swift fox, kit fox, and gray wolf, and any other mammal designated as a furbearer in a regulation promulgated pursuant to Section 2.3.
- (17) “Game bird” means the ring-necked pheasant, ruffed grouse, wild turkey, sharp-tailed grouse, Hungarian partridge, sage grouse, chukar, mourning dove, and any other bird designated as a game bird in a regulation promulgated pursuant to Section 2.3.
- (18) “Game fish” means all species of the family *Salmonidae* (chars, trout, salmon, grayling, and whitefish); all species of the genus *Sander* (sandpike or sauger and walleyed pike or yellowpike perch); all species of the genus *Esox* (northern pike, pickerel, and muskellunge); all species of the genus *Micropterus* (bass); all species of the genus *Polyodon* (paddlefish); all species of the family *Acipenseridae* (sturgeon); all species of the genus *Lota* (burbot or ling); the species *Perca flavescens* (yellow perch); all species of the genus *Pomoxis* (crappie); the species *Ictalurus punctatus* (channel catfish); and any other fish designated as a game fish in a regulation promulgated pursuant to Section 2.3.
- (19) “Game Warden” is a qualified law enforcement officer authorized by the President and Council to enforce this Code.
- (20) “Guide” means the taking of persons upon or over the land or waters of the Reservation for the purpose of hunting, trapping, or fishing in return for a fee in money, goods, or any other kind of compensation or consideration.
- (21) “Harass” means to chase, shoot at, or use any other means to disturb or otherwise affect the behavior of fish or wildlife. Harass also means to unreasonably disturb an individual lawfully engaged in hunting, fishing, gathering, or a recreation activity under this Code.
- (22) “Hunt” means the acts of pursuing, shooting, wounding, killing, collecting, or taking (or attempting to pursue, shoot, wound, kill, trap, capture, collect, or take) any wildlife. The term includes an attempt to take or harvest wildlife by any such means.

- (23) “Member” means an enrolled member of the Northern Cheyenne Tribe, as defined by the Tribe’s laws.
- (24) “Migratory game bird” means waterfowl (including wild ducks, wild geese, brant, and swans); cranes (including little brown and sandhill); rails (including coots, Wilson’s snipes or jacksnipes); mourning doves; and any other bird designated as a migratory game bird in a regulation promulgated pursuant to Section 2.3.
- (25) “Non-member” means any person who is not a member of the Northern Cheyenne Tribe.
- (26) “Northern Cheyenne Fish and Wildlife Commission” means the commission established pursuant to Section 2.2 of this Code to ensure implementation of this Code is consistent with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices.
- (27) “Open season” means the period of time when fish or wildlife may be lawfully taken on the Reservation.
- (28) “Outfitter” means any person who, in return for a fee in money, goods, or any other kind of compensation or consideration, provides equipment for hunting, trapping, or fishing activities.
- (29) “Permit” means a written authorization from the Director to engage in any activity subject to this Code issued pursuant to Chapter 3 of this Code. A permit may be designated as a “certificate,” “tag,” “license,” or otherwise.
- (30) “Person” means any individual, corporation, partnership, association, foreign government, tribe, state, municipality, political subdivision of a state or tribe, the United States, any subdivision or instrumentality of the United States, the Northern Cheyenne Tribe, and any subdivision or instrumentality of the Northern Cheyenne Tribe.
- (31) “President” means the President of the Northern Cheyenne Tribe.
- (32) “Raptor” means a falcon, hawk, eagle, osprey, owl and any other bird designated as a raptor in a regulation promulgated pursuant to Section 2.3.
- (33) “Reservation” means the Northern Cheyenne Indian Reservation as established by the Presidential Executive Orders of November 26, 1884, and March 19, 1900, all lands of any kind within the exterior boundaries of the Reservation, all lands which are now or hereafter subject to the jurisdiction of the Tribe, and all lands to which the Tribe holds legal or equitable title.
- (34) “Road” means any paved or unpaved trail that is passible by motor vehicles.

- (35) “Take” or “taken” means to harm, pursue, hunt, shoot, wound, kill, trap, capture, harvest, or collect any fish, wildlife, or plant, or to attempt to engage in any such conduct. “Taking” means the act by which fish, wildlife, or plants are taken.
- (36) “Transport” means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.
- (37) “Trap” means to take or attempt to take any animal or fish by means of setting or operating any device, mechanism, or contraption that is designed to close upon, hold fast or otherwise capture an animal or fish.
- (38) “Tribe” means and “Tribal” refers to the Northern Cheyenne Tribe.
- (39) “Tribally protected species” means the following species:
- (a) Golden and bald eagles (*Aquila chrysaetos* and *Haliaeetus leucocephalus*);
  - (b) All species of hawks and falcons (order Falconiformes);
  - (c) All species of owls (order Stringiformes);
  - (d) Whistling and trumpeter swans (order Anseriformes, subfamily Cygninae);
  - (e) All species of migratory shorebirds, wading birds, and seabirds including storks, loons, grebes, cormorants, herons, egrets, pelicans, cranes, curlews, plovers, avocets, phalaropes, sandpipers, gulls, and terns (orders Gaviiformes, Podicipediformes, Pelicaniformes, Ciconiiformes, Gruiformes (family Gruidae), and Charadriiformes);
  - (f) All species of songbirds including woodpeckers, flickers, swallows, swifts, hummingbirds, nighthawks, kingfishers, jays, ravens, wrens, thrushes, chickadees, bluebirds, vireos, warblers, and magpies (orders Caprimulgiformes, Apodiformes, Piciformes, and Passeriformes);
  - (g) Badger, black bear, black-footed ferret, prairie dog, lynx, river otter, wolverine, fisher, and marten; and
  - (h) Any other species of fish or wildlife designated as a protected species in a regulation promulgated by the Director pursuant to Section 2.3.
- (40) “Upland game bird” means the sharp tailed grouse, blue grouse, spruce (Franklin) grouse, prairie chicken, sage hen or sage grouse, ruffed grouse, quail and pheasant, Hungarian partridge, ptarmigan, wild turkey, chukar, partridge, and any other bird designated as an upland game bird in a regulation promulgated pursuant to Section 2.3.
- (41) “Water body” means any wetland, stream, creek, river, pond, lake, or reservoir.

- (42) “Waterfowl” means birds of the family *Anatidae*, including brant, ducks, geese, and swans, and any other bird designated as waterfowl in a regulation promulgated pursuant to Section 2.3.
- (43) “Wildlife” means any wild animal other than fish, including mammals, amphibians, reptiles, birds, mollusks, and invertebrates.

### **Section 1.5: Title to Fish and Wildlife**

- (1) Until validly acquired in accordance with this Code and any applicable regulations or permits issued thereunder, the legal title to all fish and wildlife within the Reservation is vested in the Tribe.
- (2) The Tribe retains legal title to any fish and wildlife and carcass or part thereof taken or possessed in violation of this Code. Any fish, wildlife, or carcass or part thereof lawfully acquired that is possessed, used, given, sold, bartered or transported in violation of this Code may be seized, wherever found, by an authorized officer pursuant to Section 7.14.

### **Section 1.6: Scientific Research**

Nothing in this Code or regulations promulgated pursuant to this Code shall be construed to prohibit the taking of fish, wildlife, or plants on the Reservation by Department personnel for scientific research purposes in accordance with other applicable laws.

### **Section 1.7: Sovereign Immunity**

Neither this Code nor any action or agreement of the Director or his or her employees, agents, contractors, subcontractors, or other delegates pursuant to this Code shall in any respect constitute waiver or modification of the sovereign immunity of the Tribe or its instrumentalities, officials, employees, or agents.

### **Section 1.8: Interpretation**

If any provision in this Code conflicts with any other provision of this Code, other Tribal law, or federal law, the most stringent and protective provision shall be controlling.

### **Section 1.9: Severability**

If any provision in this Code, or application of any provision in this Code to any person or circumstance, is determined to be invalid or unlawful, the application of such provision to other persons and circumstances, and the remaining provisions in this Code, shall not be affected.

### **Section 1.10: Repeal of Prior Laws**

Upon the effective date of this Code, the Northern Cheyenne Fish, Wildlife, and Recreation Ordinance, adopted in 1996 pursuant to Tribal Council Ordinance No. 23 (96), Section 7-10-6 of the Northern Cheyenne Law and Order Code, and Section 7-10-6 of the Northern Cheyenne Law and Order Code are hereby repealed.

### **Section 1.11: Effective Date**

This Code shall become effective upon approval by the Council and shall be included as part of the Tribe's Law and Order Code.

## **CHAPTER 2: ADMINISTRATION**

### **Section 2.1: Northern Cheyenne Department of Natural Resources.**

- (1) The Director of the Northern Cheyenne Department of Natural Resources shall have general responsibility for the management of fish and wildlife resources on the Reservation in accordance with this Code.
- (2) In addition to the responsibilities stated elsewhere in this Code, the Director shall have the following responsibilities:
  - (a) Implement and enforce the provisions of this Code;
  - (b) Develop, implement, and enforce proposed annual hunting, trapping, and fishing regulations, based upon the best available biological information, for review by the Northern Cheyenne Fish and Wildlife Commission and approval by the Council;
  - (c) Develop, implement, and enforce a permitting system for hunting, trapping, and fishing activities on the Reservation pursuant to Chapter 3;
  - (d) Provide for broad dissemination of this Code and regulations adopted pursuant to this Code to the Reservation public;
  - (e) Provide guidance on interpretation and implementation of this Code and regulations enacted pursuant to this Code;
  - (f) Make recommendations to the Council regarding modifications to this Code and any regulations enacted pursuant to this Code;
  - (g) Make recommendations to the Council regarding appropriation of funds necessary for effective implementation and enforcement of this Code and any regulations enacted thereunder;
  - (h) Negotiate cooperative agreements with the State of Montana, other tribes, other government agencies, non-government organizations, and individuals for the

purpose of promoting and implementing fish and wildlife management on the Reservation, provided that no such agreements shall be valid unless approved by the Council.

- (3) The Director shall have program authority and control over the Department and its staff to carry out the policies of the Council in accordance with this Code and regulations adopted thereunder.
- (4) The Director is authorized to delegate any duty or authority assigned to the Director under this Code to other employees, consultants, or contractors retained by the Tribe.

## **Section 2.2: Northern Cheyenne Fish and Wildlife Commission**

- (1) There is hereby established a Northern Cheyenne Fish and Wildlife Commission, which shall be composed of five members, one from each of the five districts on the Northern Cheyenne Reservation.
- (2) Members of the Northern Cheyenne Fish and Wildlife Commission shall be nominated by the President and confirmed by the Council prior to taking office. Members of the Northern Cheyenne Fish and Wildlife Commission shall be individual tribal members with extensive knowledge of Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices.
- (3) Within six months of enactment of this Code, the Northern Cheyenne Fish and Wildlife Commission shall establish bylaws and rules not inconsistent with this Code and other Tribal law, and subject to approval by the Council, governing the Commission's operations and decision-making process.
- (4) The Northern Cheyenne Fish and Wildlife Commission shall have the following duties:
  - (a) Review draft regulations promulgated by the Director pursuant to Sections 2.4 and 2.5 of this Code and provide recommendations to the Director on how any draft regulations should be revised to ensure protection of and consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices;
  - (b) Review any closure order issued or proposed to be issued pursuant to Section 2.7 of this Code and make recommendations to the Director regarding whether such closure order should be modified, limited, or rescinded to ensure protection of and consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices;
  - (c) Consult with the Director on any application for a special permit for cultural and religious takings submitted pursuant to Section 3.7 of this Code and make recommendations to the Director regarding whether such permit should be granted and, if so, any conditions that should be included in the permit to ensure

protection of and consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices;

- (d) Consult with the Director on any application for a special permit for the taking of Tribally protected species submitted pursuant to Section 3.9 of this Code and make recommendations to the Director regarding whether such permit should be granted and, if so, any conditions that should be included in the permit to ensure protection of and consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices; and
  - (e) Make recommendations to the Council regarding revisions to this Code necessary to ensure protection of and consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices.
- (5) The Northern Cheyenne Fish and Wildlife Commission shall provide any objections and recommendations to the Director as specified in paragraph (4) of this Section within 30 days of receipt of a request from the Director for review. The failure of the Northern Cheyenne Fish and Wildlife Committee to provide timely objections or recommendations to the Director shall not prevent the Director from finalizing or implementing regulations, closure orders, special permits for cultural and religious takings, or special permits for the taking of Tribally protected species.

### **Section 2.3: Tribal Fish and Wildlife Fund**

- (1) The Council shall establish a tribal account called the Tribal Fish and Wildlife Fund. The Department shall deposit all revenue generated from the sale of hunting, trapping, and fishing permits into the Tribal Fish and Wildlife Fund. Funds collected from fines, forfeitures, or penalties for violations of this Code shall also be deposited into the Tribal Fish and Wildlife Fund.
- (2) Funds deposited in the Tribal Fish and Wildlife Fund shall be used for the following purposes only:
  - (a) Management, conservation, protection, and enhancement of the fish, wildlife, and plants on the Reservation.
  - (b) Enforcement of this Code and any regulations adopted pursuant to this Code.
  - (c) Dissemination of information and development of education programs related to fishing, hunting, gathering, and recreating on the Reservation.
  - (d) Support of the Department programs and staff to ensure effective implementation and enforcement of this Code and regulations promulgated thereunder.

### **Section 2.4: Annual Regulations**



- (1) The Director is authorized and required to develop annual hunting, trapping, and fishing regulations, not inconsistent with the provisions of this Code, which shall establish the allowable methods, gear, locations, seasons, and times for hunting, trapping, and fishing on the Reservation. The annual regulations shall provide members with greatest possible freedom to use and enjoy fish and wildlife resources on the Reservation consistent with public safety and the conservation and enhancement of these resources for future generations. The annual regulations may also authorize limited use of fish and wildlife resources on the Reservation by non-members, consistent with the Tribe's safety, conservation, and enhancement goals, to the extent the Director determines such limited uses will benefit the Tribe and promote intercultural education and goodwill.
- (2) Annual regulations required by this Section shall be promulgated in accordance with the following process:
  - (a) Each year, the Director shall submit to the Council and the Northern Cheyenne Fish and Wildlife Commission, and distribute to the Reservation public, copies of draft annual regulations that establish the allowable methods, gear, locations, seasons, and times for hunting, trapping, and fishing on the Reservation.
  - (b) Upon circulation of the draft annual regulations in accordance with paragraph (2)(a) of this Section, the Director shall open a 30-day public comment period on the draft annual regulations. The Director shall accept and review written comments submitted during the public comment period and may provide a response to any public comments raising significant issues of public concern, to the extent the Director determines that a written response is necessary or appropriate.
  - (c) During the public comment period described in this Section, the Director may hold one or more public hearings on the draft annual regulations if the Director determines that such public hearings will help to ensure that the Reservation public has a full opportunity to provide input on the draft annual regulations.
  - (d) During the public comment period described in this Section, the Northern Cheyenne Fish and Wildlife Commission shall submit to the Director any written objections and written recommendations for modifications to the draft annual regulations. The Director shall promptly modify the draft annual regulations to reflect the written objections or recommendations submitted by the Northern Cheyenne Fish and Wildlife Commission unless the Director disagrees with an objection or recommendation from the Northern Cheyenne Fish and Wildlife Commission on draft regulations, in which case the Director shall forward the dispute to the Council for resolution.
  - (e) Within 30 days after the close of the public comment period described above, the Director shall submit a final version of the annual regulations to the Council for approval. The final version of the annual regulations shall be revised, as the Director deems appropriate, to address any public comments received during the

public comment period. The annual regulations shall become effective upon Council approval.

- (3) If the Director fails to promulgate annual regulations in accordance with this Section, the annual regulations promulgated for the previous year shall remain in effect until such time as new annual regulations are promulgated in accordance with this Section.
- (4) The failure of the Northern Cheyenne Fish and Wildlife Commission to provide timely written objections or recommendations on draft regulations circulated pursuant to paragraph (1) of this Section shall not prevent the Director or the Council from finalizing or implementing such regulations after the close of the public comment period in accordance with paragraph (2)(e) of this Section.

### **Section 2.5: Special Regulations**

- (1) If, at any time, the Director deems it necessary or appropriate to modify a provision in the annual regulations on a temporary basis, the Director may present a proposed special regulation, not inconsistent with the provisions of this Code, to the Council for approval. Such modification shall become effective upon Council approval.
- (2) The Director shall promptly submit any proposed special regulations to the Northern Cheyenne Fish and Wildlife Commission, and special regulations promulgated pursuant to this Section shall be developed in close consultation with the Northern Cheyenne Fish and Wildlife Commission. During such consultation, the Northern Cheyenne Fish and Wildlife Commission may, within 30 days of receipt of proposed special regulations, submit to the Director objections or recommendations for modifications to the proposed special regulations to ensure consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices. The Director shall modify the proposed special regulations to reflect any such objections or recommendations unless the Director disagrees with the objections or recommendations, in which case the Director shall forward the dispute to the Council for resolution.
- (3) The failure of the Northern Cheyenne Fish and Wildlife Commission to timely consult with or provide recommendations to the Director on proposed special regulations submitted pursuant to this Section shall not prevent the Director from finalizing and implementing such special regulations so long as the Director has made reasonable efforts to consult with the Northern Cheyenne Fish and Wildlife Commission prior to issuance.

### **Section 2.6: Dissemination of Final Regulations**

The Director shall ensure that copies of any final regulations promulgated pursuant to this Code are available on the Tribe's website, provided to the Northern Cheyenne Fish and Wildlife Commission, widely disseminated to the Reservation public, and available at any location where Tribal hunting, trapping, or fishing permits are sold.

## **Section 2.7: Closure Orders**

- (1) Notwithstanding any other provision of this Code, the Director is authorized to issue an order that:
  - (a) Closes any road on the Reservation to travel by members, non-members, or both for the purposes of hunting, trapping, or fishing upon determination that use of such road may have an unacceptable adverse impact on fish or wildlife populations on the Reservation; or
  - (b) Closes any part of the Reservation to hunting, trapping, or fishing upon determination that such hunting, trapping, or fishing activity may threaten public health, welfare or safety or have unacceptable adverse impacts on fish or wildlife populations on the Reservation.
- (2) A closure order issued pursuant to this Section shall specify the road or area closed, the activities subject to the closure, and the time period of the closure.
- (3) The Director shall promptly submit any draft closure order to the Northern Cheyenne Fish and Wildlife Commission, and a closure order issued pursuant to this Section shall be developed in close consultation with the Northern Cheyenne Fish and Wildlife Commission. During such consultation, the Northern Cheyenne Fish and Wildlife Commission may, within 30 days of receipt of a draft closure order, submit to the Director written objections or recommendations for modifications to the draft closure order. The Director shall promptly modify the draft closure order to reflect timely written objections or recommendations submitted by the Northern Cheyenne Fish and Wildlife Commission unless the Director disagrees with an objection or recommendation, in which case the Director shall forward the dispute to the Council for resolution.
- (4) Notwithstanding paragraph (3) of this Section, if an emergency condition exist that prevents the Director from consulting with the Northern Cheyenne Fish and Wildlife Commission prior to issuance of a closure order, the Director may issue the closure without consulting with the Northern Cheyenne Fish and Wildlife Commission. If the Director issues a closure order without consulting with the Northern Cheyenne Fish and Wildlife Commission, the Director shall consult with the Northern Cheyenne Fish and Wildlife Commission as soon as reasonably possible following issuance of such order.
- (5) The Tribal President, at the request of the Northern Cheyenne Fish and Wildlife Commission or otherwise, may at any time revoke, suspend, or modify a closure order issued by the Director.
- (6) The failure of the Northern Cheyenne Fish and Wildlife Commission to provide timely objections or recommendations to the Director on a draft closure order submitted to the Commission pursuant to paragraph (3) of this Section shall not prevent the Director from finalizing such closure order so long as the Director has made reasonable efforts to

consult with the Northern Cheyenne Fish and Wildlife Commission in accordance with this Section.

- (7) A closure order shall become effective immediately upon issuance or at such time or date as the closure order may direct. Such closure shall be communicated to members and the public as soon as possible.

## **CHAPTER 3: HUNTING, TRAPPING, AND FISHING PERMITS**

### **Section 3.1: Permits Required**

Except as provided herein, no person shall hunt, trap, or fish on the Reservation without possession of a valid Tribal permit issued pursuant to this Chapter authorizing such activity.

### **Section 3.2: Permit Exception for Member Fishing**

- (1) The permitting requirements of this Chapter are not applicable to fishing on the Reservation by a member of the Tribe who possesses a valid Tribal Identification Card, *provided* that nothing in this Code shall prohibit the Director from requiring, pursuant to a regulation promulgated in accordance with Section 2.3, that members obtain a fishing permit to engage in specified fishing activities if the Director determines that such a permitting requirement is appropriate or necessary to maintain healthy and sustainable populations of fish on the Reservation.
- (2) Whether pursuant to a permit or otherwise, any member engaged in hunting, trapping, or fishing on the Reservation must fully comply with the provisions of Chapters 4-6 and any applicable regulations promulgated by the Director pursuant to this Code.

### **Section 3.3: Fish and Wildlife Permit Applications**

The Director shall develop application forms for hunting, trapping, and fishing permits that comply with this Code. Permit application forms developed pursuant to this Section shall require applicant to provide:

- (1) A description of applicant's weight, height, color of eyes, and color of hair;
- (2) The applicant's home address (including street and/or box number) and phone number;
- (3) The applicant's date of birth;
- (4) For members, the applicant's tribal enrollment number; and
- (5) For non-members, a copy of the applicant's driver's license or other state or tribally issued identification.

### **Section 3.4: Issuance of Fish and Wildlife Permits**

- (1) The Director is authorized to issue permits for hunting, trapping, and fishing on the Reservation. A permit issued pursuant to this Chapter shall contain the following information:
  - (a) The name and physical description of the permittee (weight, height, color of eyes, color of hair);
  - (b) The dates of permit issuance and expiration;
  - (c) A description of the hunting, trapping, or fishing activities authorized by the permit;
  - (d) A description of the methods and gear that may be used while the permittee is engaged in the permitted activity;
  - (e) The location on the Reservation where the permitted activity may occur;
  - (f) The seasons and times when the permitted activity may occur;
  - (g) Applicable limits on the number of fish or wildlife that may be taken pursuant to the permit; and
  - (h) The date of permit expiration.
- (2) A permit issued pursuant to this Chapter is not valid unless it has been signed by the permittee. Any permit issued pursuant to this Chapter shall prominently display the following language immediately above the location for the permittee's signature:
  - (a) "This permit is non-transferrable. It may only be used by the person named on this permit as the permittee."
  - (b) "By signing this permit, I expressly consent to and authorize law enforcement officers of the Northern Cheyenne Tribe to conduct a search of my person and property to investigate suspected violations of the terms of this permit, the Northern Cheyenne Fish and Wildlife Code, and any regulation promulgated thereunder."
  - (c) "By signing this permit, I expressly consent and subject myself to the regulatory and judicial jurisdiction of the Northern Cheyenne Tribe and the Northern Cheyenne Tribal Court for the purposes of implementing and enforcing this permit, the Northern Cheyenne Fish and Wildlife Code, and any regulation promulgated thereunder."
  - (d) "By signing this permit, I expressly acknowledge my familiarity Northern Cheyenne Fish and Wildlife Code and the regulations promulgated thereunder,

and I expressly agree to comply fully with the Code, applicable regulations, and the terms of this permit.”

### **Section 3.5: Special Senior and Disabled Member Permits**

- (1) The Director is authorized to issue special hunting, trapping, and fishing permits to qualified members who are above the age of 65 or are disabled and who are not able to hunt on their own behalf or require special accommodations to hunt. A senior or disabled member permit may:
  - (a) Exempt a member who is above the age of 65 or disabled from any provision of this Code or regulations promulgated thereunder, *provided* that such exemption is reasonably necessary to accommodate the needs of such senior or disabled member, the exemption will not undermine the purposes of this Code, and the exemption will not adversely affect any population of fish or wildlife on the Reservation; or
  - (b) Authorize a designated member to hunt, trap, or fish on behalf of a senior or disabled member, *provided* that any person designated by permit to hunt, trap, or fish on behalf of a senior or disabled member shall be required to fully comply with the provisions of Chapters 4-6, and *further provided* that such designated member shall provide all fish or wildlife acquired pursuant to the permit to the senior or disabled member.
- (2) A member designated by permit to hunt, trap, or fish on behalf of a senior or disabled member shall be considered the “permittee” for purposes of this Chapter.

### **Section 3.6: Special Research Permits**

- (1) The Director may issue a special research permit to a representative of an accredited institution of learning or a governmental agency to engage in scientific research that may cause the taking of fish or wildlife on the Reservation, provided that such taking shall not violate federal law or unreasonably jeopardize the population of such species on the Reservation.
- (2) Any person seeking to obtain a special research permit pursuant to this Section shall submit a permit application to the Director that describes the species that will be collected, the area where the collection will occur, the time when the collection will occur, the purpose for the collection, the collection methodology to be used, and the qualifications of the person who will be doing the collecting.
- (3) A special research permit issued pursuant to this Section shall specify the locations where and times when the permitted taking may occur, the limit on the number of species to be taken, and the means by which the permitted taking may occur. The permit shall also require the permittee to submit a report to the Director upon completion of the permitted

activity describing the numbers and species of animals collected pursuant to the permit and the locations where such animals were collected.

- (4) The Director may include in a special research permit issued pursuant to this Section a condition requiring the permittee to enter into a research agreement with the Department prior to engaging in the research activity subject to the special permit application. Any such research agreement shall specify the methodologies to be used for the permitted research; measures to be taken to minimize impacts to fish, wildlife, or natural vegetation on the Reservation; and the permissible uses of data generated from the permitted research activities.

### **Section 3.7: Special Permits for Cultural and Religious Takings**

- (1) The Director is authorized to issue special permits exempting any member from any provision of this Code or regulations promulgated thereunder in order to enable such member to take fish or wildlife for traditional Cheyenne cultural or religious purposes.
- (2) The Director shall promptly forward any application for a special permit for cultural and religious takings to the Northern Cheyenne Fish and Wildlife Commission, and any permit issued pursuant to this Section shall be developed in close consultation with the Northern Cheyenne Fish and Wildlife Commission. During such consultation, the Northern Cheyenne Fish and Wildlife Commission may, within 30 days of receipt of an application for the special permit, submit to the Director recommendations that the permit application should be granted, denied, or conditioned to ensure consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices. The Director shall implement any such recommendations unless the Director disagrees with the recommendations, which case the Director shall forward the dispute to the Council for resolution.
- (3) The failure of the Northern Cheyenne Fish and Wildlife Commission to timely consult with or provide recommendations to the Director on an application for a permit submitted pursuant to this Section shall not prevent the Director from issuing such permit so long as the Director has made reasonable efforts to consult with the Northern Cheyenne Fish and Wildlife Commission prior to issuance.

### **Section 3.8: Special Permits for Taking of Stock-Killing Animals**

Notwithstanding other provisions of this Code or regulations promulgated thereunder, the Director may issue a special permit authorizing livestock owners and their agents, Department personnel, and personnel of federal agencies to use dogs and other means to take stock-killing black bears, stock-killing mountain lions, and stock-killing bobcats. However, the Director shall not authorize use of a deadfall trap for the taking of stock-killing black bears, stock-killing mountain lions, and stock-killing bobcats. Any permit issued for the trapping of stock-killing black bears shall require that the traps be inspected twice each day with the inspections 12 hours apart.

### **Section 3.9: Special Permits for Taking of Tribally Protected Species**

- (1) Notwithstanding other provisions of this Code or regulations promulgated thereunder, the Director may issue a special permit authorizing the taking of a Tribally protected species if upon determining that the taking of the subject Tribally listed species:
  - (a) is necessary for wildlife management purposes or scientific research purposes; and
  - (b) will not jeopardize the continued existence of the Tribally protected species on the Reservation.
- (2) The Director shall promptly forward any application for a special permit for taking of Tribally protected species to the Northern Cheyenne Fish and Wildlife Commission, and any permit issued pursuant to this Section shall be developed in close consultation with the Northern Cheyenne Fish and Wildlife Commission. During such consultation, the Northern Cheyenne Fish and Wildlife Commission may, within 30 days of receipt of an application for the special permit, submit to the Director recommendations that the permit application should be granted, denied, or conditioned to ensure consistency with Northern Cheyenne traditions and customs regarding fish and wildlife and hunting and fishing practices. The Director shall implement any such recommendations unless the Director disagrees with the recommendations, which case the Director shall forward the dispute to the Council for resolution.
- (3) The failure of the Northern Cheyenne Fish and Wildlife Commission to timely consult with or provide recommendations to the Director on an application for a permit submitted pursuant to this Section shall not prevent the Director from issuing such permit so long as the Director has made reasonable efforts to consult with the Northern Cheyenne Fish and Wildlife Commission prior to issuance.

### **Section 3.10: Transport Permits**

Any permit issued pursuant to this Chapter shall authorize permittee to transport fish or wildlife lawfully acquired pursuant to the permit on the Reservation. In addition, the Director may issue special transport permits authorizing the transport of fish or wildlife for purposes of population management, public safety, or as otherwise deemed necessary for implementation of this Code.

### **Section 3.11: Permit Fees**

- (1) For any permit required by this Code, the Director may establish a reasonable permitting fee that must be paid by the permit applicant upon submittal of a permit application or renewal application. However, the Director shall not charge a permit fee for special permits for cultural or religious takings issued pursuant to Section 3.7.
- (2) The Director shall minimize any permit fee charged to members pursuant to this Code and shall limit permit fees charged to members to the amount deemed necessary to cover



the costs incurred by the Department in reviewing the permit application and issuing the permit.

- (3) Permit fees established for non-member hunting, trapping, and fishing activities shall be based on the costs incurred by the Department in reviewing the permit application and issuing the permit, the costs incurred by the Tribe in enforcing this Code, and the estimated cultural and economic value of the fish or wildlife authorized to be taken.
- (4) No permit issued pursuant to this Code is valid unless the permittee has timely paid all applicable permit fees.
- (5) Any fees collected pursuant to this Section shall be deposited in the Tribal Fish and Wildlife Fund established pursuant to Section 2.2, and must be used as specified in Section 2.2(2).

### **Section 3.12: Denial, Suspension, Revocation, and Conditioning of Permits**

- (1) The Director may deny, suspend, revoke, or condition a permit issued pursuant to this Code upon any of the following grounds:
  - (a) Applicant or permittee's failure to submit a complete application in the form prescribed by the Department;
  - (b) Applicant or permittee's failure meet all applicable qualifications for holding the permit, as specified in this Code or a regulation promulgated thereunder;
  - (c) Applicant or permittee's fraud or deception in procuring a tribal permit or in engaging in a permitted activity;
  - (d) Applicant or permittee's violation of any provision of this Code, a regulation promulgated pursuant to this Code, the terms of a permit issued pursuant to this Code, or any provision of the laws of the United States or the Tribe relating to hunting, trapping, or fishing;
  - (e) Applicant or permittee's negligence or misconduct while engaged in activities governed by this Code or a regulation promulgated thereunder; or
  - (f) The Director's determination that the permitted activity would threaten public safety or have unacceptable effects on a fish or wildlife population on the Reservation.
- (2) In taking any action to deny, suspend, revoke, or condition a permit pursuant to this Section, the Director shall maintain an administrative record comprised of the permit application, supporting documentation, and any other materials the Director considered in deciding to take such action.

- (3) Any person aggrieved by a final decision by the Director to deny, suspend, revoke, or condition a permit issued pursuant to this Section may file a civil complaint with the Tribal Court, pursuant to the Northern Cheyenne Rules of Civil Procedure, challenging such decision. However, the Tribal Court shall uphold a decision of the Director made pursuant to this Section unless the Tribal Court is convinced, solely on the basis of the administrative record before the Director at the time the decision was made, that the Director's decision was arbitrary and capricious or contrary to law.

## **CHAPTER 4: GENERAL RESTRICTIONS**

### **Section 4.1: Closure**

It is unlawful to hunt, trap, or fish on the Reservation except as authorized by this Code or a regulation promulgated by the Director pursuant to Section 2.3.

### **Section 4.2: Violation of Regulations**

It is unlawful to violate any regulation promulgated by the Director and approved by the Council in accordance with Section 2.3 of this Code.

### **Section 4.3: Possession of a Valid Permit**

- (1) For any activity subject to a permitting requirement in this Code or regulations promulgated thereunder, the permittee must maintain a valid permit in his or her personal possession at all times in which the permittee is engaged in the permitted activity, is travelling to or from the permitted activity, or is in possession of fish or wildlife taken pursuant to such permit.
- (2) The Director may by regulation limit the number of hunting, trapping, or fishing permits that may be issued to or possessed by a person on the Reservation. It is unlawful to apply for, purchase, or possess a greater number of permits than authorized by the Director.
- (3) It is unlawful to possess a permit issued by the Director pursuant to Chapter 3 that has been altered or changed after issuance without approval of the Director.

### **Section 4.4: Unlawful Procurement of Permit**

- (1) It is unlawful for any person to make any materially false statement on an application for a permit submitted pursuant to Section 3.3.
- (2) No person may use a permit issued by the Director pursuant to Chapter 3 to another person.

### **Section 4.5: Possession of Valid Identification**

- (1) No person shall engage in hunting, trapping, or fishing on the Reservation without possession of a valid government-issued photo identification.
- (2) Members of the Tribe shall possess their Tribal Identification Card when they are engaged in hunting, trapping, or fishing on the Reservation.
- (3) No person shall refuse to display his or her identification to any authorized officer upon request.

#### **Section 4.6: Seasons**

It is unlawful for any person to hunt, trap, fish, or otherwise intentionally take any species of fish or wildlife on the Reservation except during the open season for such species as specified in regulations promulgated by the Director pursuant to Section 2.3.

#### **Section 4.7: Reporting**

All permittees shall, upon request by Department personnel or as specified in a regulation or permit issued pursuant to this Code, provide harvest reports and other data relating to the permitted activity as the Department may require.

#### **Section 4.8: Hunting, Trapping, or Fishing While Privileges Suspended**

- (1) No person may hunt, trap, or fish on the Reservation if such person's privilege to hunt, fish, or trap on the Reservation has been suspended pursuant to Section 7.12(6).
- (2) No person shall purchase, obtain, possess, or apply for a permit to hunt, trap, or fish on the Reservation if that person's privilege to conduct such activity has been suspended pursuant to Section 7.12(6).

#### **Section 4.9: Commercial Use of Fish or Wildlife**

No person shall use fish or wildlife obtained on the Reservation for commercial purposes.

#### **Section 4.10: Waste of Fish or Wildlife**

No person who takes fish or wildlife on the Reservation shall intentionally abandon, or needlessly allow to go to waste, any portion thereof. It is unlawful for any person to fail to properly dress and care for any fish or wildlife taken by that person. It is also unlawful for any person to fail to transport a reasonably accessible carcass taken by that person to a place for proper storage and care.

#### **Section 4.11: Larceny of Fish or Wildlife**

No person shall, without permission of the owner, molest, disturb, or appropriate any fish or wildlife, or the carcass thereof, which is lawfully in the possession of another.

#### **Section 4.12: Use of Poisons and Explosives**

- (1) It is unlawful to take fish or wildlife with the aid of any explosive, poison, or stupefying substance or device, except as specifically authorized in a regulation promulgated pursuant to Section 2.3.
- (2) It is unlawful to place in any waters of the Reservation explosives that might cause the destruction of fish or wildlife, except as specifically authorized in a regulation promulgated pursuant to Section 2.3.
- (3) It is unlawful to possess or control upon any waters of the Reservation any explosive, poison, or stupefying substance or device for the purpose of taking fish or wildlife, except as specifically authorized in a regulation promulgated pursuant to Section 2.3.
- (4) Nothing in this Code shall prohibit the Tribe or its designated agents from using explosives or possessing explosives for the purpose of removing beaver dams, clearing a channel, breaking a log or ice jam, creating wetlands, or other construction projects authorized by the Council.

#### **Section 4.13: Unlawful Possession or Transportation of Fish or Wildlife**

- (1) It is unlawful for any person to knowingly possess or transport any species of fish or wildlife or part thereof that was taken in violation of this Code or a regulation or permit issued pursuant to this Code.
- (2) It is unlawful for any person to have in his or her possession or under his or her control any fish or wildlife in a quantity or volume or size that exceeds the limits established by this Code or a regulation or permit issued pursuant to this Code.

#### **Section 4.14: Resisting an Authorized Officer**

No person shall assault or otherwise resist, endanger, or obstruct any authorized officer carrying out his or her duties under this Code.

#### **Section 4.15: Inspections and Check Stations**

- (1) Upon request of the Director, Department personnel, or an authorized officer, all hunters, trappers, and anglers are required to produce for inspection any current fish and game permits that have been issued to the person and any fish or wildlife, or parts or carcasses thereof, in the person's possession.
- (2) Hunters, trappers, and anglers leaving areas for which a check station has been established are required to stop and report at such check station if personnel are on duty.

#### **Section 4.16: False Impersonation of an Officer**

No person shall falsely represent himself or herself to be an authorized officer, or assume to act as such an officer, without having been first duly appointed by the Tribe.

#### **Section 4.17: Taking Fish or Wildlife on Private Lands**

- (1) No hunting, trapping, or fishing is allowed, without permission from the landowner or lessee, on private lands on the Reservation that have been posted.
- (2) For purposes of this Section, lands are “posted” if the owner or lessee of such lands, or an individual authorized by the owner, has placed signs alongside all public highways on such lands and on the boundaries to such lands giving public notice that no trespassing, hunting, trapping, and/or fishing is allowed on such lands. The name of the person posting the land must appear on each sign in legible characters. The signs must be readable from the outside of the land and must be placed conspicuously not more than eight hundred eighty yards apart. As to land entirely enclosed by a fence or other enclosure, posting of signs at or on all gates through the fence or enclosure constitutes a posting of all the enclosed land.
- (3) A person may not deface, take down, destroy posting signs, or post property without the permission of the owner or tenant or an individual authorized by the owner.
- (4) Even if the conduct of the owner, tenant, or individual authorized by the owner varies from the provisions of paragraph 2 of this Section, an individual may be found in violation of this Section if the owner, tenant, or individual authorized by the owner substantially complied with paragraph 2 and notice against trespassing, hunting, trapping, and/or fishing is clear from the circumstances.

#### **Section 4.18: Tampering with Equipment of Another**

No person, except an authorized officer acting in the course of his or her duty, shall molest, disturb, tamper with, or in any way interfere with any hunting, trapping, or fishing equipment used, set, or placed by another except with the express permission of the owner or the Director.

#### **Section 4.19: Endangered, Threatened, and Tribally Protected Species**

- (1) Except as otherwise by a special permit issued pursuant to Section 3.9 or a regulation promulgated pursuant to Section 2.3, no person shall take, transport, possess, or sell any endangered species, threatened species, or Tribally protected species.
- (2) This section shall not prohibit the taking of endangered species, threatened species, or Tribally protected species when such action is necessary to address an immediate danger of serious injury or death to any person.

#### **Section 4.20: Closed Areas**

No person shall hunt, trap, or fish in an area of Reservation that is closed to such activity by a regulation promulgated pursuant Section 2.3, or a closure order issued by the Director pursuant to Section 2.6.

#### **Section 4.21: Introduction of Fish, Wildlife, or Plants**

No person shall knowingly introduce any fish or wildlife species on the Reservation without express written authorization by the Director.

#### **Section 4.22: Accompaniment by Non-Permittees**

Except as authorized in a regulation promulgated pursuant to this Code, it is unlawful for:

- (1) Any permittee engaged in hunting or trapping on the Reservation to be accompanied in the field by a non-permittee who possesses a firearm or bow; or
- (2) Any person engaged in fishing on the Reservation to be accompanied by a non-member who does not have a fishing permit and who possesses a rod or other fishing gear.

#### **Section 4.23: Intoxication**

It is unlawful for any person to hunt, trap, or fish while under the influence of alcohol, an intoxicant, or a controlled substance.

#### **Section 4.24: Defacing Signage**

No person shall destroy, tear down, shoot at, or otherwise deface any sign or other printed matter placed or posted by the Department to assist in the implementation or enforcement of this Code.

#### **Section 4.25: Littering**

No person engaged in hunting, trapping, or fishing on the Reservation shall deposit upon any public or private land any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, cans, barbed wire, boards, trash, garbage, lighted material, or other waste substances without authorization from the Director or the owner of the affected property.

#### **Section 4.26: Parental Responsibility**

It is unlawful for any person to authorize or knowingly allow or encourage a person under the age of 18 from violating any provision of this Code or a regulation or permit issued thereunder.

#### **Section 4.27: Harassment**

No person shall intentionally prevent, hinder, or interfere with the lawful taking of fish or wildlife by another.

#### **Section 4.28: Violations of 18 U.S.C. § 1165**

Any non-member who takes fish or wildlife on the Reservation in violation of the provisions of this Code shall be deemed to be fishing or hunting on the Reservation without lawful authority or permission, as those terms are used in 18 U.S.C. § 1165.

#### **Section 4.29: Outfitters and Guides**

No person shall act as an outfitter or guide on the Reservation.

### **CHAPTER 5: HUNTING AND TRAPPING RESTRICTIONS**

#### **Section 5.1: Age Restrictions for Hunting and Trapping**

- (1) No person under 10 years of age may hunt while in possession of a firearm or bow. However, persons under 10 years of age may accompany a person over the age of 18 who is engaged in hunting or trapping on the Reservation pursuant to a permit issued under Chapter 3.
- (2) No person between the ages 10 and 17 years may hunt while possessing a firearm or bow unless he or she possesses any permit required under this Code and is accompanied by a permitted parent, guardian, or other person over the age of 18 who is designated by a parent or guardian.
- (3) No person born after January 1, 1998, may hunt on the Reservation unless such person possesses any permit required under this Code and has completed a certified Tribal, federal, state, or Canadian hunter safety course and possesses proof of completion.
- (4) No person under the age of 12 shall trap on the Reservation unless such person possesses any permit required under this Code and is accompanied by a permitted parent, guardian, or other person over the age of 18 who is designated by a parent or guardian.

#### **Section 5.2: Hunting Limits for Game Animals**

No person may attempt to take more than one game animal of any one species in any one permit year unless the killing of more than one game animal of that species has been specifically authorized in regulations promulgated pursuant to Section 2.3.

#### **Section 5.3: Firearm Restrictions**

- (1) It is unlawful to hunt big game with the use of a firearm with a barrel bore diameter of less than 0.23 inches, a firearm chambered to fire a cartridge less than 2 inches in overall length, or a muzzle loader less than 45 caliber.
- (2) It is unlawful to hunt upland game birds and waterfowl with a shotgun that is greater than 10 gauge in size.

- (3) No person shall use a shotgun to hunt deer or elk except as authorized by the Director in a regulation promulgated pursuant to Section 2.3.
- (4) No person shall use a rifle to hunt upland game birds except as authorized by the Director in a regulation promulgated pursuant to Section 2.3.
- (5) It is unlawful to hunt wildlife on the Reservation with use of fully automatic weapons or devices designed to silence or muffle the sound of any firearm.
- (6) It is unlawful for any person to carry or possess a loaded firearm on the Reservation while intoxicated or under the influence of a controlled substance.
- (7) It is unlawful for any person to discharge a firearm on the Reservation in a careless or reckless manner or with wanton disregard for the safety of human life and property.

#### **Section 5.4: Carcasses**

- (1) Except as provided in this Section, any person who obtains a carcass on the Reservation by hunting or trapping shall remain present with such carcass until such time as the carcass is processed.
- (2) No person shall knowingly accept for transport another person's carcass without the permit holder being present unless such person possesses a special transport permit issued pursuant to Section 3.10. This paragraph shall not apply to the transport of a seized carcass by an authorized officer in the course of their duties.

#### **Section 5.5: Tags**

- (1) A tag must be attached to any big game animal, buffalo, wild turkey, or bobcat lawfully acquired on the Reservation through hunting or trapping. The Director is authorized to require tagging of other wildlife species by regulation promulgated pursuant to Section 2.3.
- (2) A hunting or trapping permit issued by the Director will serve as a tag for the purposes of this Section unless a regulation promulgated by the Director authorizes the taking of more than one individual animal pursuant to a single permit, in which case the Department shall issue tags with the permit.
- (3) The appropriate tag shall be carried by a permittee at all times while he or she is hunting or trapping animals that are subject to a tagging requirement.
- (4) A tag affixed to an animal carcass pursuant to this Section must be kept attached to the carcass as long as any considerable portion of the carcass remains unconsumed. No carcass of an animal subject to a tagging requirement shall be transported, stored, or



possessed on the Reservation unless the required tag remains securely attached to such carcass.

- (5) A tag affixed to an animal carcass pursuant to this Section is invalid unless it is completely filled out with the name of the permittee, the permittee's address, and any other information required on the tag.
- (6) For any carcass tagged pursuant to this Section, the permittee must provide the following information to the Department no later than 30 days after the close of the applicable Season:
  - (a) Species of the animal killed;
  - (b) Sex of the animal killed;
  - (c) For deer and elk, the number of points if a spike;
  - (d) Date animal was killed; and
  - (e) Approximate location of the kill.
- (7) No person may attach his or her tag to an animal killed by another person.

#### **Section 5.6: Wild Birds**

- (1) It is unlawful to take or destroy the nest or eggs of a wild bird, except pursuant to a permit issued by the Director. However, no permit shall be required for the taking of nests or eggs of house sparrows, crows, starlings, rock doves, blackbirds, and other birds the Director designates.
- (2) Nothing in this Code or regulations promulgated thereunder shall be construed as prohibiting tribal citizens from possessing or transporting parts or plumage of eagles used for cultural, traditional, or religious purposes in accordance with federal law.

#### **Section 5.7: Hunting Waterfowl**

- (1) No person shall hunt waterfowl on the Reservation unless he or she has a valid permit for waterfowl hunting issued pursuant to Section 3.4 and a federal Duck Stamp.
- (2) Any person hunting waterfowl with use of a shotgun shall use steel shot or another non-toxic type of shot approved by the Director. It is unlawful to use lead shot for waterfowl hunting.

#### **Section 5.8: Hunting Mountain Lion Kittens**

No person shall hunt mountain lion kittens or a female mountain lion with kittens.

### **Section 5.9: Use of Boats for Hunting**

A boat may be used to access hunting areas; however, no person shall hunt from any boat, or any floating device towed by a boat.

### **Section 5.10: Use of Aircraft for Hunting**

- (1) No person may take any wildlife from an aircraft.
- (2) No person may use an aircraft to:
  - (a) Locate any wildlife for the purpose of hunting that animal during the same hunting day;
  - (b) Concentrate, pursue, drive, rally, harass, or stir up any wildlife; or
  - (c) Spot or locate any wildlife and communicate the location of such animal to any person to aid in hunting or pursuing such wildlife.

### **Section 5.11: Use of Vehicles While Hunting**

- (1) Except as provided in a permit issued pursuant to Section 3.5, no person may hunt or attempt to hunt any wildlife from any self-propelled, motor-driven, or drawn vehicle.
- (2) No person may concentrate, drive, rally, stir up, run, molest, flush, herd, chase, harass, or impede the movement of wildlife from or with use or aid of a self-propelled, motor-driven, or drawn vehicle. However, this paragraph does not apply to a landowner and his or her authorized agents who are engaged in the immediate protection of the landowner's property.
- (3) Motor-driven vehicles may only be used on roads or trails designated for travel by the Tribe or the landowner.

### **Section 5.12: Destruction of Evidence of Sex**

It is unlawful to destroy evidence of the sex of a big game animal, buffalo, or bobcat taken on the Reservation so as to make the determination of the sex of the animal uncertain.

### **Section 5.13: Baiting and Supplemental Feeding**

It is unlawful for anyone to hunt big game animals or buffalo by the aid of or with the use of any bait, salt lick, or supplemental feed attractants. For purposes of this Section, baiting shall mean the placing, exposing, depositing, distributing, or scattering of food sources or salt so as to constitute a lure or attraction for wildlife.

#### **Section 5.14: Accidental Shootings**

- (1) Any person who, while hunting any wildlife, discharges a firearm or arrow and thereby injures another person, shall immediately give his or her name and address to the injured person, render assistance to him or her as may be necessary, and report such injury to the Director and Tribal law enforcement.
- (2) If an accidental shooting results in a death, any witness of such accidental shooting shall immediately report such death to the Director and Tribal law enforcement.

#### **Section 5.15: Artificial Lights**

- (1) No person shall hunt using any artificial light of any kind unless such light is approved by regulation for a specific hunt.
- (2) No person shall hunt using any artificial light which is greater than 10,000 candle power in magnitude under any circumstances.
- (3) No person shall hunt using any night scope or other device that enhances the ability of a hunter to see in the dark.

#### **Section 5.16: Hunting Near Buildings and Occupied Locations**

No person shall hunt or discharge firearms within 500 yards of an occupied building, whether on privately-owned or Tribal land, without the consent of the person(s) occupying such building.

#### **Section 5.17: Transportation of Firearms and Bows**

- (1) No person shall transport a firearm in a motorized vehicle with a round in the chamber.
- (2) No person shall transport a revolver in a motorized vehicle with a cartridge in the cylinder.
- (3) No person shall transport a shotgun in a motorized vehicle with a shell in the magazine.

#### **Section 5.18: Hunting On or Near Roadways**

- (1) Except as authorized by a permit issued pursuant to Section 3.5, no person shall hunt while possessing a loaded firearm or strung bow within 50 feet of the center of a maintained road.
- (2) Except as authorized by a permit issued pursuant to Section 3.5, no person, other than an authorized officer acting in his or her official duty, shall discharge a firearm or bow of any type from or across a maintained road.

#### **Section 5.19: Shooting From a Vehicle**

- (1) Except as authorized by a permit issued pursuant to Section 3.5, no person, other than an authorized officer acting in his or her official duty, shall load or discharge a firearm or bow of any type from a motor vehicle.
- (2) No person, other than an authorized officer acting in his or her official duty, shall lean or place any loaded firearm or bow of any type against any vehicle.

### **Section 5.20: Hunting Hours**

No person shall pursue, shoot, kill or attempt to take any wildlife between ½ hour after sunset of one day and ½ hour before sunrise of the next day, unless specifically authorized by this Code or regulations promulgated thereunder.

### **Section 5.21: Use of Tracking Devices While Hunting**

No person shall, while hunting, possess any infrared or other electronic motion-tracking device or mechanism that is designed to track the motion of a game animal and relay information on the animal's movement to the hunter. However, this Section shall not prohibit the use of:

- (1) A radio-tracking collar attached to a dog that is used by a hunter engaged in lawful hunting activities; and
- (2) Stationary motion-detecting trail cameras, *provided* that:
  - (a) The trail camera is tagged with owner's the name, address, and hunting permit number (if applicable);
  - (b) The placement of the trail camera does not cause damage to natural vegetation; and
  - (c) The trail camera is placed in an area of the Reservation where hunting is allowed.

### **Section 5.22: Use of Dogs While Hunting**

- (1) Except as provided in paragraph (2) of this Section, no person may chase any big game animal, buffalo, or furbearer with a dog or purposefully, knowingly, or negligently permit a dog to chase, stalk, pursue, attack, or kill a hooved game animal.
- (2) This Section does not prohibit a person from using a dog to:
  - (a) hunt game birds;
  - (b) hunt mountain lions;
  - (c) hunt bobcats;

- (d) hunt coyotes; or
  - (e) chase or herd away wildlife to protect humans, lawns, gardens, livestock, or agricultural products.
- (3) This Section does not prohibit a person from using a dog to track a wounded big game animal, buffalo, or furbearer provided that such person shall maintain physical control of the dog at all times by means of a maximum 50-foot lead attached to the dog's collar or harness.

### **Section 5.23: Use of Traps and Snares**

- (1) It is unlawful to take any big game animal, buffalo, or bird with the use of a trap or snare.
- (2) Any trap or snare set on the Reservation shall be:
  - (a) Tagged with a weather-resistant device that clearly identifies the owner's name, address, telephone number, and the permit number authorizing the trapping activity, except that a tag identifying a permit number is not required on a trap used by a landowner on his or her own property;
  - (b) Set in a manner, at a location, and at a time so that it will not endanger humans or livestock; and
  - (c) Checked at least every 48 hours.
- (3) Any person who traps or snares a species of wildlife that he or she is not authorized to trap or snare in a permit issued pursuant to Section 3.4 shall immediately release the animal if it is not injured, and shall immediately notify the Department of the incident.

### **Section 5.24: Destruction, Disturbance, or Removal of Traps**

No person may destroy, disturb, or remove any trap or snare belonging to another person or remove wildlife from a trap or snare belonging to another person without permission of the owner of the trap or snare, except that a landowner or lessee may remove any trap or snare set or maintained on his or her land without approval by the landowner or lessee.

### **Section 5.25: Trapping of Furbearers**

- (1) Except as provided by regulation promulgated pursuant to Section 2.3, any person who has lawfully trapped a furbearing animal on the Reservation may possess and sell the furs and hides and other parts of such furbearer.
- (2) Any trapper who has taken one or more furbearers during the trapping season shall report the total number of furbearers he or she trapped on the Reservation to the Department at the close of the trapping season.

## **Section 5.26: Trapping in Beavers and Muskrat Houses**

Except as authorized by regulation promulgated pursuant to Section 2.3, no person shall set a trap or snare in the house of a muskrat or beaver or otherwise willfully destroy, damage, or open a house of a muskrat or beaver.

## **CHAPTER 6: FISHING RESTRICTIONS**

### **Section 6.1: Age Restrictions for Fishing**

There are no age restrictions for fishing on the Reservation.

### **Section 6.2: Hook and Line Fishing**

- (1) Except as authorized by this Code or a regulation promulgated pursuant to Section 2.3, no person may take fish by any means other than by hook and single line or single rod, in hand or within the angler's immediate control.
- (2) Snagging of any game fish except paddlefish is prohibited.
- (3) This Section does not prevent:
  - (a) The use of landing net or gaff to land a game fish after the game fish has been hooked as specified herein;
  - (b) The taking of minnows that are not of the game fish variety by the use or aid of a net not to exceed 12 feet in length and 4 feet in width; or
  - (c) The taking of any game fish through a hole in ice with an unattended line or rod as long as the angler is in the vicinity and within visual contact of the line or rod.
- (4) This Section does not prevent an angler from using up to 6 attended or unattended lines or set lines with up to 6 hooks per line for fishing in the Tongue River and its primary tributaries.

### **Section 6.3: Fish Traps**

Except as authorized by regulation promulgated pursuant to Section 2.3, no person shall use any trap or other device to entrap, catch, capture, or take any game fish.

### **Section 6.4: Possession of Nets**

- (1) Except as authorized by regulation promulgated pursuant to Section 2.3, no person engaged in fishing shall possess or control a seine, net, or other similar device for capturing fish.

- (2) This section does not apply to the use of a landing net in connection with or in addition to fishing with pole or line and hook.

### **Section 6.5: Poisons and Explosives**

Except as authorized by regulation promulgated pursuant to Section 2.3, no person shall:

- (1) Fish with a hook baited with any poisonous substance or use any poisonous substance, including fish berries, for fishing;
- (2) Use any corrosive or narcotic poison or other deleterious substance for the purpose of catching, stunning, or killing fish;
- (3) Use any carbide, lime, giant powder, dynamite, or other explosive substance for the purpose of catching, stunning, or killing fish; or
- (4) Possess carbide, lime, giant powder, dynamite, or other explosive substance within 100 feet of any water where fish are found for the purpose of catching, stunning, or killing fish.

### **Section 6.6: Fishing with Archery Equipment and Firearms**

Except as authorized by regulation promulgated pursuant to Section 2.3, no person shall:

- (1) Use archery equipment to take fish; or
- (2) Carry or use a firearm while fishing.

### **Section 6.7: Chumming**

No person shall place any fish, parts of fish, or other substance or artificial light into any water for the purpose of attracting fish to a particular area in order that they may be taken.

## **CHAPTER 7: ENFORCEMENT**

### **Section 7.1: Notice to the Public**

- (1) The Director shall conspicuously post signage along the boundaries of the Reservation and at all roadway points of entry to the Reservation putting the public on notice that:
  - (a) Tribal permits are required for hunting, trapping, and fishing on the Reservation;
  - (b) Violators of tribal hunting, trapping, and fishing regulations are subject to tribal and federal law and sanctions; and

- (c) Visitors must inquire locally for permits and other information regarding restrictions on hunting, trapping, and fishing on the Reservation.
- (2) The lack of signage required by the Section or the lack of knowledge of such signage shall not be a defense in any action to enforce the provisions of this Code or a regulation promulgated thereunder.

### **Section 7.2: Civil Enforcement**

Except as provided in Section 7.13, all violations of this Code shall be civil in nature.

### **Section 7.3: Enforcement Officers**

- (1) It shall be the primary responsibility of the Game Warden to enforce this Code. It shall be the duty of every authorized officer to enforce this Code and its implementing regulations. To this end, all such officers shall be vested with authority to the full extent of Tribal law. Tribal law enforcement officers, including the Game Warden, may issue citations or make arrests and seizures in accordance with this Chapter. Officers may use such vessels or vehicles as are necessary to perform their duties under this Section. The Council may also appoint and deputize persons to assist the Game Warden and Tribal enforcement officers in the performance of their duties.
- (2) Notwithstanding any provision of this Code, the Council may enter into an agreement with tribal, state, federal, or county governments for the cross-deputization of enforcement officers for the purpose of enforcing this Code and other applicable laws relating to fish and wildlife.

### **Section 7.4: Representation of the Tribe**

The Tribal Prosecutor shall represent the Tribe in all legal proceedings arising under this Code to which the Tribe is a party. If there is a conflict of interest that prevents the Tribal Prosecutor from representing the Tribe in a legal proceeding arising under this Code to which the Tribe is a party, the Council shall designate other legal counsel to represent the Tribe in the case.

### **Section 7.5: Statute of Limitations**

- (1) No complaint shall be filed charging a civil violation of this Code more than two years after the conduct giving rise to the violation occurred.
- (2) No complaint, information, or citation shall be filed charging a criminal violation of Code more than five years after the alleged offense was committed.

### **Section 7.6: Notice of Civil Violation**



- (1) Civil enforcement of this Code is commenced by issuance of a notice of civil violation, which shall constitute a civil complaint under the Northern Cheyenne Rules of Civil Procedure. A notice of civil violation may be issued to any person by:
  - (a) Any authorized officer if the officer witnesses, or has probable cause to believe such person has committed, a violation of this Code; or
  - (b) The Tribal Court upon receipt of a complaint by the Director, the Tribal Prosecutor, or an authorized officer stating the circumstances of the incident, from which the Court determines there is probable cause to believe a violation of this Code has been committed.

### **Section 7.7: Service of Notice**

- (1) In the event that a notice of civil violation is issued by an authorized officer, he or she shall serve a copy of the notice on the suspected violator by personal delivery. The issuing officer or the Tribal Prosecutor shall file a copy of such notice with the Tribal Court along with a certification that service on the suspected violator occurred in accordance with this paragraph.
- (2) In the event that a notice of civil violation is issued by the Tribal Court upon receipt of a complaint, the notice shall be served on the suspected violator in accordance with the Northern Cheyenne Rules of Civil Procedure and a copy of such notice shall be filed with the Tribal Court.

### **Section 7.8: Contents of Notice**

A notice of civil violation issued pursuant to this Section shall include the following:

- (1) A statement that the notice represents a determination that a violation of this Code or a regulation or permit issued pursuant to this Code was committed by the person named in the notice;
- (2) A description of the specific acts or omissions forming the basis of the determination that the violation was committed;
- (3) A statement of the civil damages for the violation as provided in Section 7.2;
- (4) A statement that the person named in the notice must, within twenty days of service of the notice, either:
  - (a) pay the assessed civil damages;
  - (b) request a hearing to contest the determination that a violation was committed; or

- (c) request a hearing to explain mitigating circumstances which the person named in the notice believes justify a reduction in the civil damages owed.
- (5) A statement that an additional fee of \$150 may be assessed to the person receiving the notice if such person does not pay the civil penalty or request a hearing within 20 days of service of the notice; and
- (6) A statement that a default judgment may be entered against the person named in the notice of civil violation if such person does not pay the civil penalty or request a hearing within 20 days of service of the notice.

**Section 7.9: Response to Notice of Violation**

Within 20 days of service of a notice of violation pursuant to Section 7.7, the person named in the notice of violation shall respond to such notice by either paying the civil damages identified in the notice, requesting a hearing to contest the determination that a violation was committed, or requesting a hearing to explain mitigating circumstances which the person named in the notice believes justify a reduction in the civil damages owed. A response submitted pursuant to this Section shall constitute an answer to a civil complaint under the Northern Cheyenne Rules of Civil Procedure.

**Section 7.10: Hearing on Notice of Civil Violation**

Any hearing on a notice of civil violation issued pursuant to this Chapter shall be prosecuted in accordance with the Northern Cheyenne Rules of Civil Procedure and Evidence, except that:

- (1) Any such hearing shall be held within 60 days of receipt of a response submitted pursuant to Section 7.9;
- (2) Any such hearing shall be held without a jury;
- (3) The Tribal Court shall provide any person requesting a hearing pursuant to Section 7.9 written notice of the date, time, and location of the scheduled hearing at least five days in advance of the hearing; and
- (4) The Tribal Court may consider the notice and any other written report made under oath submitted by the law enforcement officer who issued the notice, or whose written statement formed the basis for issuance of the notice, in lieu of the officer's personal appearance at the hearing.

**Section 7.11: Default Judgment**

- (1) In accordance with the Northern Cheyenne Rules of Civil Procedure, the Tribal Court shall enter a default judgment against a person named in a notice of civil violation upon finding that:

- (a) The notice of infraction was properly issued and served on the person named in the notice;
- (b) The person named in the notice was informed of his or her duty to either pay the presumptive penalty amount to the Department or file a request for hearing to the 20 days of service of the notice; and
- (c) The person named in the notice failed to:
  - (i) Pay the presumptive penalty amount or request a hearing on the notice of civil violation with the Tribal Court within 20 days of service of the notice; or
  - (ii) Attend a hearing requested pursuant to Section 7.10.
- (2) A default judgment issued pursuant to this Section shall be in the amount of the presumptive civil damages plus a \$150 fee to cover court costs.
- (3) If a default judgment is entered, the Tribal Court clerk shall, if feasible, issue notice of judgment to the defendant advising that he or she must pay the judgment amount within thirty days of the date of such notice and that the failure to pay the judgment within the allowed time may result in forfeiture of any material seized pursuant to Section 7.15.

**Section 7.12: Civil Damages**

- (1) Any person who has violated this Code or a regulation promulgated thereunder shall be liable for civil damages of up to a total of \$10,000 for each violation.
- (2) The Director shall include in the annual regulations promulgated pursuant to Section 2.3 a list of presumptive civil damages that shall be assessed for violations of this Code and regulations and permits issued pursuant to this Code.
- (3) The Director shall consider the following factors in establishing presumptive civil damages:
  - (a) The severity of the violation;
  - (b) The value of any fish or wildlife resource impacted by the violation;
  - (c) Whether the violation impacted any endangered species, threatened species, or protected species;
  - (d) Whether the violation resulted in harm to any persons or a threat to public safety;
  - (e) The violator's history of violations and good faith efforts to comply;

- (f) The economic benefit to the violator of non-compliance;
  - (g) The cost to the Department of enforcement and administration of this Code; and
  - (h) Any other factors deemed appropriate by the Director.
- (4) The Tribal Court may, in its discretion, reduce the amount of any civil damages assessed pursuant to this Section upon finding that mitigating circumstances warrant a decrease in the civil damages amount.
  - (5) The Tribal Court may, in its discretion, increase the amount of any civil damages assessed pursuant to this Section, up to a maximum of \$10,000 per violation, upon finding that aggravating circumstances warrant an increase in the civil damages amount.
  - (6) In addition to civil damages, upon finding that a violation of this Code has been committed, the Tribal Court may issue an order suspending the hunting, trapping, or fishing privileges of the violator for a period of up to 5 years, revoking any permit issued to the violator pursuant to this Code, and prohibiting the violator from obtaining a new permit for a period of up to 5 years.
  - (7) Nothing in these rules shall preclude the use of the remedy of expulsion against non-members for a violation of this Code in accordance with the procedures provided in the Tribe's Law and Order Code.

### **Section 7.13: Criminal Sanctions for Tribal Members**

- (1) In any case in which a member of the Tribe has committed a violation of this Code or a regulation or permit issued pursuant to this Code, the violation may, in the discretion of the Tribal Prosecutor, be charged as a criminal offense.
- (2) Criminal proceedings under this Code shall be governed by the Tribe's Law and Order Code provisions dealing with criminal procedures, unless specifically modified by procedures as set out herein.
- (3) Any member who has entered a guilty plea or has been convicted by the Tribal Court of a criminal violation of this Code or a regulation or permit issued thereunder, shall be sentenced as follows:
  - (a) For the first violation, the member shall be fined up to the presumptive civil damages amount prescribed pursuant to Section 7.12, not to exceed \$5,000, or imprisoned for up to 30 days, or both, and shall have all fish or wildlife or the value thereof in the possession of the defendant that is connected to the crime forfeited to the Tribe;
  - (b) For a second violation, the member shall be fined up to twice the presumptive civil damages amount prescribed pursuant to Section 7.12, not to exceed \$5,000,

or imprisoned for up to six months, or both, and shall lose his or her fishing or hunting privileges for up to six months, and shall have all fish or wildlife or the value thereof in the possession of the defendant that is connected to the crime forfeited to the Tribe; and

- (c) For each additional violation, the member shall be fined up to \$5,000, or imprisoned for up to one year, or both, and shall lose his or her fishing or hunting privileges for up to five years, and shall have all fish or wildlife or the value thereof in the possession of the defendant that is connected to the crime forfeited to the Tribe.

#### **Section 7.14: Seizure of Gear and Fish and Wildlife**

- (1) Any authorized officer may seize any non-perishable gear or other paraphernalia which the officer has reasonable grounds to believe has been used in the commission of a violation of this Code, provided that gear or paraphernalia shall be seized pursuant to this Section only if:
  - (a) It is needed as evidence;
  - (b) The officer has reasonable grounds to believe the seized gear will continue to be used in violation of this Code or the implementing regulations;
  - (c) In the officer's discretion, seizure is necessary as bond to ensure the appearance of the alleged violator in Tribal Court; or
  - (d) The gear or paraphernalia is subject to a civil forfeiture proceeding pursuant to Section 7.15.
- (2) Any authorized officer may seize any fish or wildlife, or parts thereof, or other perishable materials, if the officer has reasonable grounds to believe that such material was taken or acquired in violation of this Code or if the seizure is necessary as bond to ensure the appearance of the alleged violator in Tribal Court.
- (3) Any authorized officer who seizes any materials pursuant to this Section shall deliver the seized materials to the Department, which shall prepare an inventory of all items seized that shall be signed by the officer and, if known, the alleged violator. A copy of the inventory shall be given to the alleged violator, if known. If the alleged violator is not known, a reasonable attempt shall be made to locate him or her to provide a copy of the inventory.
- (4) If an authorized officer seizes perishable materials pursuant to this Section, the Department shall make a reasonable attempt to sell such perishable property at the then-prevailing market price on the Reservation. The Department shall provide alleged violator shall receive a receipt of the sale. Such proceeds shall be held by the Department until all legal proceedings arising from the events that led to the seizure are resolved.

- (5) If a Tribal law enforcement officer seizes gear or other non-perishable materials pursuant to this Section, the Department shall store such materials in a manner to minimize damage.
- (6) Unless forfeited pursuant to Section 7.15, the Department shall return non-perishable materials seized pursuant to this Section shall to the rightful owner or possessor after:
  - (a) Final disposition of any proceedings arising from the events which led to the seizure of non-perishable property, including any separate forfeiture proceeding pursuant to Section 7.15;
  - (b) Satisfactory proof of ownership or rightful possession; and
  - (c) Payment of reasonable costs for retrieval and storage.
- (7) Unless forfeited pursuant to Section 7.15, the Department shall return the proceeds from the sale of any seized perishable materials to the person from whom the materials were seized after:
  - (a) Final disposition of any proceedings arising from the events which led to the seizure of the perishable property, including any separate forfeiture proceeding pursuant to Section 7.15; and
  - (b) Payment of reasonable costs for the sale of the perishable materials.

**Section 7.15: Civil Forfeiture**

- (1) The Tribe may seek civil forfeiture of any property seized pursuant to Section 7.14. Forfeiture of seized property must be preceded by a civil forfeiture determination made by the Tribal Court in a separate civil proceeding initiated by the Tribal Prosecutor pursuant to the Northern Cheyenne Rules of Civil Procedure. A hearing for a civil forfeiture proceeding must be held within 20 days after the seizure, provided that this period shall be tolled until:
  - (a) the day hearing on a notice of violation or a trial concludes; or
  - (b) the day the defendant either enters a plea of guilty or agrees that he or she committed a civil violation; or
  - (c) the day the Tribe decides not to prosecute or bring a civil action, drops the prosecution or civil action, or the Tribal Court dismisses the case with prejudice; or
  - (d) if none of the above applies, the day any other event occurs which makes it clear that the prosecution or civil action has concluded or will not proceed.

- (2) The Tribal Prosecutor must provide written notice of a forfeiture hearing at least 5 days before the hearing to the person in whose possession the property was found, if any, and the owner of the property, if known. If the owner or rightful possessor of the property is unknown, then the notice of hearing shall be posted for 10 days in a public manner on the premises from which the property was seized or, if none, in other locations reasonably calculated to provide notice to the owner or rightful possessor and by publication in a newspaper with daily circulation on the Reservation. At the hearing the Court shall hear the evidence presented and shall determine if a preponderance of the evidence shows that the property was used to violate or in violation of this Code or obtained or possessed in violation of this Code.
- (3) If the Tribal Court determines that a preponderance of the evidence establishes that the seized property was used to violate or in violation of this Code or obtained or possessed in violation of this Code, the Court shall order the seized property to be sold, destroyed, or turned over to the Tribe for the use and benefit of the Tribe. If the Court does not find that the seized property was used to violate or in violation of this Code or obtained or possessed in violation of this Code, it shall order the property returned to the owner subject to any other applicable requirements of this Code.
- (4) Any funds forfeited pursuant to this Section shall be deposited in the Fish and Wildlife Fund established pursuant to Section 2.2.