

NORTHERN CHEYENNE TRIBAL COUNCIL
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

ORDINANCE NO. 23 (96)

AN ORDINANCE OF THE NORTHERN CHEYENNE TRIBAL COUNCIL SETTING FORTH FOR THE ADMINISTRATION AND MANAGEMENT OF FISH, WILDLIFE, AND RECREATION ON THE NORTHERN CHEYENNE RESERVATION.

WHEREAS, the Northern Cheyenne Tribal Council is the governing body of the Northern Cheyenne Indian Reservation by authority of the Amended Constitution and By-Laws of the Northern Cheyenne Tribe as approved on July 8, 1960, by the Secretary of the Interior; and,

WHEREAS, the Tribal Council is empowered under Article IV., Section I of the Tribal Constitution to protect and preserve the property, wildlife and natural resources of the Reservation; population negotiate with Federal and State and Local Governments on behalf of the Tribe; promulgate and enforce ordinances and subject it to review, delegate powers to subordinate boards and officers; and,

WHEREAS, the Northern Cheyenne Tribe values the protection and preservation of the tribe's cultural ways and enhancing the tribe's health, welfare and safety on the Northern Cheyenne Reservation; and,

WHEREAS, the enforcement and provision of this ordinance or any rule or regulation adopted pursuant to this ordinance; and,

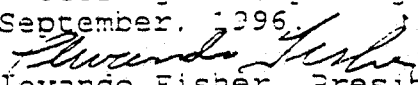
WHEREAS, the Northern Cheyenne Tribal Council supports education and awareness program on the Reservation to enhance the reservation's fish, wildlife, plant, and recreation resources; and,

WHEREAS, the Northern Cheyenne Tribal Council supports ongoing input from the traditional societies; now,

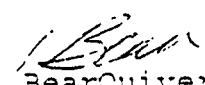
THEREFORE BE IT RESOLVED the Northern Cheyenne Tribal Council approves setting forth for the administration and management of fish, wildlife and recreation on the Northern Cheyenne Reservation.

BE IT FURTHER RESOLVED that the Tribal Council authorizes the Tribal President, Tribal Attorney, and Tribal Natural Resources Department to make final revisions of the Fish, Wildlife and Recreation Ordinance.

PASSED, ADOPTED AND APPROVED by the Northern Cheyenne Tribal Council by 11 votes for passage and adoption and 1 votes against passage and adoption with 2 abstentions this 18th day of September, 1996.


Llevando Fisher, President
Northern Cheyenne Tribal Council

ATTEST:


Zebra L. BearQuiver, Secretary
Northern Cheyenne Tribal Council

NOTED

**FISH, WILDLIFE AND RECREATION ORDINANCE
FOR THE
NORTHERN CHEYENNE INDIAN RESERVATION**

CHAPTER 1: INTRODUCTION

1.1 STATEMENT OF TRIBAL POLICY AND LEGISLATIVE INTENT

The Tribal Council of the Northern Cheyenne Tribe, recognizing the spiritual, cultural, and economic importance of the wildlife and recreation resources of the Northern Cheyenne Indian Reservation, and recognizing that these resources are a valuable tribal asset, and recognizing that unregulated use of the fish, wildlife and recreation resources of the Tribe would threaten the political integrity, economic security, and health and welfare of the Northern Cheyenne Tribe, hereby enacts this Conservation Ordinance to ensure proper management of these vital resources.

Recognizing that the Northern Cheyenne people, alone, have the absolute, inherent, retained sovereign right to use and enjoy the Northern Cheyenne Reservation, and to govern its use by its members and all others, the Tribal Council, in regulating the fish, wildlife and recreation resources of the Reservation, intends that tribal members shall be afforded the greatest possible freedom to use and enjoy these resources consistent with the preservation and improvement of these resources for future generations.

Of secondary importance is the policy of permitting the limited use of the fish, wildlife and recreation resources of the Reservation by non-members for the economic benefit of the Tribe as a whole, and for the promotion of intercultural education and good will.

Recognizing the Northern Cheyenne tradition of using restitution as a remedy for injustices, the Tribal Council hereby declares that this Ordinance is civil in nature and that restitution shall be the primary remedy for its violation, except that as to Indians, criminal sanctions may also be imposed in cases where this Ordinance so provides.

1.2 TITLE

This title shall be known as the Fish, Wildlife and Recreation Ordinance of the Northern Cheyenne Indian Reservation.

1.3 PURPOSE

This Title is enacted to conserve fish and wildlife and to govern recreation on the Northern Cheyenne Indian Reservation. Recognizing the important role that these resources play in the lives and culture of the Tribe, its is the purpose of this ordinance to:

- A. Provide a means of conservation, enhancement, protection, and management of the Northern Cheyenne Indian Reservation's fish, wildlife, and recreation resources through regulation of harvesting and recreation activities.
- B. Provide an orderly system for tribal governing of hunting, fishing, trapping, and gathering on the lands established as the Northern Cheyenne Indian Reservation.
- C. Provide a means of enforcement of rules and regulations of this Ordinance contained hereafter.

1.4 FISH AND WILDLIFE GOALS

To maintain native (or selected non-native) populations of fish and wildlife at levels consistent with tribal needs/desires and carrying capacities of available habitats.

To maintain a fish and wildlife program on the Northern Cheyenne Indian Reservation which will provide information on all species and their habitats so that land management activities or proposed habitat alterations can be evaluated from a fish and wildlife standpoint.

To provide fish and wildlife information on proposed timber sales, oil/gas permits and leases, grazing and homesite leases, and other land use activities so that positive effects of these activities on fish and wildlife can be maximized and negative effects minimized or eliminated.

1.5 SEVERABILITY

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.6 TITLE TO FISH, WILDLIFE AND PLANTS

The legal title to, and the custody and protection of all fish, wildlife and wild plants within the exterior boundaries of the Northern Cheyenne Reservation is vested in the Tribe for the purposes of regulating use, disposition and conservation thereof.

The legal title to any such fish, wildlife or wild plant, or carcass or part thereof, taken or reduced to possession in violation of this ordinance remains with the Tribe; and the title to any such fish, wildlife or wild plant, or carcass or part thereof, lawfully acquired, is subject to the condition that upon the violation of this ordinance relating to the possession, use, giving, sale, barter, or transportation of such wild plants or fish and/or wildlife or carcass or part thereof, may be seized forthwith, wherever found, by any law enforcement official authorized to enforce the provisions of this ordinance.

CHAPTER 2: DEFINITIONS

In this Ordinance, unless the context requires another meaning:

“Aircraft” means any flying machine, including hand gliders, whether fixed-wing or helicopter.

“Antlered deer” means any antlered mule deer or whitetail deer, including spikes.

“Authorized Officer” means any law enforcement officer of the Tribal Fish and Wildlife Department, and any other person authorized by the Northern Cheyenne Tribe to enforce this Ordinance.

“Bag Limit” means the maximum limit, in number or amount of a particular species of wildlife, which may lawfully be taken by any one person in one day.

“Big Game” means any one of the following species of animals: elk, mule deer, whitetail deer, bighorn sheep, buffalo, mountain goat, moose, black bear, antelope and mountain lion.

"Buck Antelope" means a male antelope with horns longer than his ear.

"Carcass" means the dead body of an animal or parts thereof.

"Closed Season" means the time during which wildlife may not be lawfully taken.

"Cross-Country Vehicles" means those vehicles designed or used to travel on the snow or across the terrain, including but not limited to snow cats, snowmobiles, all-terrain vehicles, four-wheel drive vehicles, and dirt bikes.

"Daily Limit" means the maximum limit of fish that may be legally taken during a calendar day.

"Falconry" means the taking of wildlife with birds of prey.

"Fish and Wildlife Commission" means the Northern Cheyenne Fish and Wildlife Commission.

"Fish and Wildlife Department" means the Northern Cheyenne Fish and Wildlife Department.

"Furbearers" are muskrats, mink, weasel, bobcat, beaver, badger, and coyotes.

"Game Fish" means any of the following species of fish: trout, walleye, sauger, northern pike, bass, crappies, catfish, burbot, and paddlefish.

"Harass" means to chase, shoot at, or, in any other manner, intentionally disturb wildlife.

"Hunting" means to take any bird or mammal by any means.

"License" means a written document granting authority to engage in specific activities covered in this Ordinance.

"Member" means a member of the Northern Cheyenne Indian Tribe, as defined by tribal law.

"Nongame Animals" are all wild animals except big game, small game, furbearers, and predatory animals.

"Nongame Birds" are all birds except upland game birds and migratory game birds.

"Non-member" means any individual who is not a member of the Northern Cheyenne Tribe.

"Permit" means the same thing as license.

"Pollution of Water" means discharging or dumping into any stream or body of water, or depositing within such distance that it may be carried into such water, any poisonous, deleterious, or polluting substance or waste that is or may be injurious to aquatic or non-aquatic wildlife, domestic animals, or human beings.

"Predatory Animals" are skunks and raccoons.

"Small Game" means any of the following species of mammals: cottontail rabbit, jack rabbit, snowshoe hare, marmot (rock chuck) and prairie dog.

"Recreation" means all activities other than fishing, hunting or trapping. These activities include, but are not limited to: camping, hiking, fish and wildlife viewing/photography, bicycling, hang gliding, swimming, and skiing.

"Reservation" means the Northern Cheyenne Indian Reservation.

"Road" means any maintained road that has been used by the public.

"Tag" means an identification device issued for attachment to the carcass of specified animals.

"Take" or "taking" means pursuing, shooting, shooting at, hunting, netting (including placing or setting any net or other capturing device), fishing, killing, capturing, snaring, or trapping wildlife or attempting any of the foregoing.

"Trapping" means the taking of wildlife in any manner except with gun or implement in hand.

"Upland Game Bird" means any of the following species of birds: sage grouse, sharp tailed grouse, ruffed grouse, Hungarian (gray) partridge, chukar, and pheasant.

"Water Body" means any wetland, stream, pond, lake, river or reservoir.

"Waterfowl" means all species of ducks and geese (not including swans) of the Order Anseriformes.

"Wildlife" means any wild forms of amphibians, reptiles, birds, fish and mammals including their nests and eggs.

"Wildlife Area" means an area established by the Northern Cheyenne Tribe for special wildlife protection, research, or management practices.

CHAPTER 3: ADMINISTRATION AND SUPERVISION

(Note: This Chapter will be codified in the Plan of Operations)

3.1 NORTHERN CHEYENNE FISH AND WILDLIFE COMMISSION

The Northern Cheyenne Tribal President appoints members to serve on the commission and is concurred by the Tribal Council to oversee the general activities of the Tribal Fish and Wildlife Department. The Commission shall review, promulgate, and refer policy decisions to the Tribal Council for action. In addition to the powers granted them elsewhere in this Ordinance, the Fish and Wildlife Commission of the Northern Cheyenne Tribal Council shall have the power:

- A. To determine annual hunting, trapping, and fishing regulations based upon the biological information, advice, and recommendations of the Tribal Fish and Wildlife Department.
- B. To determine the qualifications and job descriptions of all Fish and Wildlife Department

personnel and make recommendations to the Northern Cheyenne Council on personnel matters of the Fish and Wildlife Department, including the addition of personnel other than those mentioned in this chapter.

- C. To offer direction on matters of policy and the interpretation of the Ordinance.
- D. To consider any proposed change of addition to these rules, and recommend the enactment of appropriate changes or additions to the Tribal Council.
- E. To make recommendations to the Northern Cheyenne Tribal Council on the budget or amendments to the budget of the Fish and Wildlife Department.
- F. To submit for Council approval, proposals for funding which will assist the Tribe in carrying out the policy and intent of this Ordinance.
- G. To recommend to the Council that fish and game revenues to the Tribe be spent solely to manage and conserve fish, wildlife, and recreation resources and to enhance fishing, hunting, trapping and recreation opportunities on the Northern Cheyenne Indian Reservation.

3.2 NORTHERN CHEYENNE FISH AND WILDLIFE DEPARTMENT

There is hereby created a Department to be known as the Northern Cheyenne Fish and Wildlife Department which shall have the power and be charged with the duty to protect, conserve, enhance, and manage all fish and wildlife species within the exterior boundaries of the Northern Cheyenne Indian Reservation. This Department also has the responsibility to enforce the provisions of this ordinance and to carry out the policies and directions of the Fish & Wildlife Commission in all matters relating to fish, wildlife, and recreation activities. In addition to the responsibilities stated elsewhere in this Ordinance, the Fish and Wildlife Department is authorized and directed to:

- A. Report and be responsible to the Fish and Wildlife Commission.
- B. Plan, propose for enactment, and enforce tribal regulations relating to the setting of annual seasons and limits for harvesting fish and wildlife and utilization of recreational resources.
- C. Design and implement a plan for the issuance of permits and tags for the collection of fees.
- D. Publish and distribute copies of these rules and the regulations adopted pursuant to them.
- E. Cooperate and assist the Northern Cheyenne Tribe, Fish and Wildlife Commission, Societies, Council Committees, District leaders, and individuals.
- F. Enforce all Tribal regulations and proclamations necessary for carrying out the provisions of the Fish, Wildlife and Recreation Ordinance.
- G. Maintain records of all licenses issued for the purpose of hunting, fishing, trapping, and recreation.

3.3 ADMINISTRATOR OF THE FISH AND WILDLIFE DEPARTMENT

The Tribal Natural Resources Department shall appoint the Administrator of the Northern Cheyenne Fish and Wildlife Department who shall have executive authority and control of the Department and its employees to the end that the policies of the Tribal Council shall be carried out in accordance with the ordinances, resolutions and proclamations of said Tribal Council or Fish and Wildlife Commission. The Administrator shall supervise all Department personnel and delegate authority as necessary to fulfill the responsibilities of the Fish and Wildlife Department.

In cases of emergency relating to fish, wildlife or recreation activities, the Administrator may exercise the powers of the Council or Commission until such time as the Council or Commission meets or the emergency ends.

3.4 TRIBAL FISH AND WILDLIFE FUND

The Tribal Council will establish a tribal account to deposit monies collected from the sale of hunting, fishing, trapping, or recreation permits. Monies collected from fines, forfeitures, and/or penalties for violation of this ordinance through the Tribal Court system shall be deposited into this account.

3.5 EXPENDITURE OF FUNDS

The Administrator of the Fish and Wildlife Department shall have the authority to expend appropriated funds and monies deposited in the fish and wildlife account for the following:

- A. Management, conservation, protection, enhancement of the Reservation's fish, wildlife, plant, and recreation resources.
- B. Enforcement of provisions of this ordinance or any rule or regulation adopted pursuant to this ordinance.
- C. Information and education programs.
- D. Support of the Fish and Wildlife program and staff.

3.6 COOPERATIVE AND RECIPROCAL AGREEMENTS

The Fish and Wildlife Commission and the Fish and Wildlife Department are authorized, subject to the approval of the Tribal Council, to enter into reciprocal and cooperative agreements with the State of Montana, the Crow Tribe, and any government agency for the purpose of promoting and implementing fish and wildlife management programs and outdoor recreation activities.

3.7 NORTHERN CHEYENNE CONSERVATION OFFICE

Northern Cheyenne Conservation Officials shall enforce tribal laws and proclamations and the rules and regulations of the Fish and Wildlife Department.

3.8 REGULATION PROCEDURE

- A. Annual Regulations: The Fish and Wildlife Commission shall present annually to the Council for approval, proposed regulations pursuant to these rules. The annual regulations

shall be published for distribution to the public by the Fish and Wildlife Department by April 1st of each year.

- B. Special Regulations: The Fish and Wildlife Commission may, at any time, present a proposed regulation to the Council for approval, if the regulation is needed to fulfill the policy and intent of these rules. The program shall make appropriate efforts to ensure that the public is informed of special regulations.

CHAPTER 4: ELIGIBILITY - AGE RESTRICTIONS & PERMIT REQUIREMENTS

4.1 HUNTING

A. Age Restrictions:

1. Hunters less than 18 years of age must have a Northern Cheyenne, or State of Montana, Hunter Education Certificate of Competency in the safe handling of firearms before they may hunt.
2. No person under twelve years of age may hunt any migratory waterfowl or big game.
3. Twelve and 13 year old youths must be in the company of a parent or legal guardian while big game hunting.

- B. Members: Members of the Northern Cheyenne Tribe, twelve years or older, are entitled to all forms of hunting allowed by this Ordinance provided he/she obtain the requisite permits. Only those individuals with a valid hunting permit in their possession shall be allowed to hunt any big game & upland game.

- C. Non-Members/Non-Indians: All forms of hunting shall be closed to non-members except as authorized by the Tribal Council/Department.

4.2 TRAPPING

- A. Age Restrictions: It shall be unlawful for a tribal member less than twelve years of age to trap on the Northern Cheyenne Reservation, unless accompanied by a parent or guardian who is properly licensed.

- B. Members: Members may trap or hunt furbearing animals on the reservation provided he/she obtain a permit. Only those individuals with a trapping permit in their possession shall be allowed to trap any wildlife.

- C. Non-Members/Non-Indians: Except as authorized by the Tribal Council, it shall be unlawful for any non-member to trap or hunt any furbearer.

4.3 FISHING

- A. Age Restrictions: There are no age restrictions for fishing.

- B. Members: Fishing permits are not required.
- C. Non-Members/Non-Indians: Non-members may fish provided he/she obtains a Northern Cheyenne valid fishing permit.

4.4 TRANSPORTATION PERMIT

- A. If a permit is required for the transportation of any fish, wildlife, or wildlife part to another jurisdiction, it shall be unlawful to transport the wildlife outside the boundaries of the Reservation without such a permit.
- B. It shall be unlawful for any individual to transport fish or wildlife which was taken in another jurisdiction onto or through the Reservation without a transportation permit from the jurisdiction where the fish or wildlife was taken, if a permit is required for that individual to have taken that fish or wildlife on the Reservation.

4.5 RECREATION PERMITS

Non-members or Non-Indians must contact the Tribal Fish and Wildlife Department to obtain the proper permit(s) before recreating on the reservation.

4.6 POSSESSION OF PERMITS

No person taking or attempting to take fish or wildlife or recreate on the Reservation shall fail to exhibit his/her required permit to an authorized officer upon request.

4.7 SHARING OF PERMITS AND TAGS PROHIBITED

No person shall lend, share, give transfer, sell, barter, or trade to any person any identification document, permit or tag issued by the Tribal Fish and Wildlife Department. Exceptions to this Provision include handicap tribal member, elderly tribal member and other persons as determined by the Tribal Council.

4.8 PERMIT FEES

All applicable permit fees for hunting, fishing, and recreation will be determined annually by the Tribal Fish and Wildlife Commission. Free permits are available for handicap tribal member and elderly tribal member persons.

4.9 FORM AND CONTENTS OF PERMITS

Permits (licenses) shall be issued in the name of the Northern Cheyenne Tribal Fish and Wildlife Department. Except as otherwise required by this Ordinance, the form of such permits shall be left to the discretion of the Tribal Fish and Wildlife Department provided such form shall uniquely identify the licensee. This form shall have printed on it: "Non-transferable", date of expiration, year of issue, type of issue. Each permit shall be signed by the permittee in ink on the face thereof. Any permit not signed is invalid. With each permit authorizing the taking of wildlife, the Tribal Fish and Wildlife Department shall provide any required tags.

CHAPTER 5: HUNTING AND TRAPPING

5.1 MANAGEMENT UNITS

Management Units for hunting and trapping within the Northern Cheyenne Indian Reservation may be established by the Fish and Wildlife Commission. Hunting zones, closure of hunting for specific species and temporary area closures may be promulgated by regulation.

5.2 BIG GAME

- A. Definition: "Big game" means any one of the following species of mammals: antelope, elk, mule deer, whitetail deer, bighorn sheep, buffalo, mountain goat, moose, black bear, and mountain lion.
- B. Annual Regulations: Annual big game seasons and limits will be established by the Northern Cheyenne Fish and Wildlife Commission as advised by the Northern Cheyenne Fish and Wildlife Department.
- C. Hunting of all big game species not listed in the annual regulations is prohibited unless hunting season is established for big game hunting.
- D. Buffalo hunting is regulated by the Northern Cheyenne Cultural Commission.
- E. Black bears are not to be baited or hunted with dogs, and harvest of black bears with cubs are prohibited.
- F. Hunting of mountain lion kittens and females with kittens are prohibited.
- G. Except as authorized by the Tribal Council, it shall be unlawful for any non-member to trap or hunt any big game animal.

5.3 WATERFOWL

- A. Definition: "Waterfowl" means all species of ducks and geese (not including swans) of the Order Anseriformes.
- B. Northern Cheyenne Tribal Waterfowl Regulations shall be the same as Federal Waterfowl Regulations for the surrounding area.
- C. Those who purchase a waterfowl permit shall comply with federal waterfowl season dates and bag limits.
- D. A Northern Cheyenne Waterfowl Hunting Permit and a Federal Duck Stamp are required to hunt waterfowl on the Northern Cheyenne Reservation.
- E. Only steel shot may be used.

- F. Except as authorized by the Tribal Council, it shall be unlawful for any non-member to trap or hunt any waterfowl.

5.4 GAME BIRDS

- A. Definition: "Game birds" are ring-necked pheasant, ruffed grouse, wild turkey, sharp-tailed grouse, Hungarian partridge, sage grouse, chukar, and mourning doves.
- B. Annual Regulations: Season dates, bag limits, and possession limits for game birds will be determined annually by the Northern Cheyenne Fish and Wildlife Commission as advised by the Northern Cheyenne Fish and Wildlife Department.
- C. Hunting of all game birds not listed in the annual regulations is prohibited.
- D. Mourning dove hunters must comply with federal regulations.
- E. Field dressed birds shall have one wing attached for identification.
- F. Except as authorized by the Tribal Council, it shall be unlawful for any non-member to trap or hunt any game birds.

5.5 WILD TURKEY

Season dates and limits for wild turkey will be established annually by the Northern Cheyenne Fish and Wildlife Commission as advised by the Northern Cheyenne Fish and Wildlife Department.

- A. Except as authorized by the Tribal Council, it shall be unlawful for any non-member to trap or hunt any wild turkey.

5.6 SMALL GAME AND PREDATORS

- A. Definitions: "Small game" means any of the following species of mammals: cottontail rabbit, jack rabbit, snowshoe hare, marmot, and prairie dog.
- B. Annual Regulations: Annual regulations for the taking of small game and predators will be determined annually by the Northern Cheyenne Fish and Wildlife Commission as advised by the Northern Cheyenne Fish and Wildlife Department.
- C. Except as authorized by the Tribal Council, it shall be unlawful for any non-member to trap or hunt any small game or predators.

5.7 FURBEARERS

- A. Definition: "Furbearers" are badger, bobcat, beaver, coyote, mink, muskrat, weasel, and racoons.
- B. Annual Regulations: Season dates and limits for taking furbearers will be determined annually by the Northern Cheyenne Fish and Wildlife Commission as advised by the Northern

Cheyenne Fish and Wildlife Department.

- C. Taking of all furbearers not listed in the annual regulations is prohibited. Any furbearer trapped that is not listed in the regulations must be turned in to the Tribal Fish and Wildlife Department.
- D. All bobcat pelts must be tagged by the Northern Cheyenne Fish and Wildlife Department.
- E. Trapping will be allowed in areas designated by the Tribal Fish and Wildlife Department as specified in the annual regulations. Applications must be submitted by the trapper.
- F. Each trapper must identify individual traps with a tag bearing his name.
- G. Beaver Damage Permits may be issued to remove nuisance beavers by the Tribal Fish and Wildlife Department.
- H. Except as authorized by the Tribal Council, it shall be unlawful for any non-member to trap or hunt any furbearers.

CHAPTER 6: FISHING

6.1 DEFINITIONS

"GAME FISH" means any of the following species of fish: trout, walleye, sauger, northern pike, bass, crappie, catfish, burbot, and paddle fish.

"Daily limit" shall mean the number of fish that may be legally taken during a calendar day.

6.2 ANNUAL REGULATIONS

Season dates, daily limits, and possession limits for game fish will be determined annually by the Fish and Wildlife Commission as advised by the Fish and Wildlife Department.

6.3 MEANS OF TAKING

- A. Only a single line with hook(s), with or without a pole, may be used for fishing unless otherwise specified in special management regulations. The pole or line must be in the angler's immediate control.
- B. Snagging of all game fish species except paddlefish is prohibited.
- C. Anglers may use up to six (6) attended or unattended lines or set lines, with up to six (6) hooks per line in the Tongue River and its primary tributaries. All other waters will be closed to the use of set lines.
- D. It is unlawful to use any carbide, lime, dynamite, or explosive compound, or any corrosive or narcotic poison, or to have any of the same in one's possession within one hundred (100)

feet of any water where fish are found, for the purpose of stunning or killing fish.

- E. The use of any type of gill net or hoop net for the purpose of capturing fish is prohibited.
- F. The use of SCUBA gear while taking fish is prohibited.
- G. The use of live fish (minnows) for bait in any water body being managed for salmonids is prohibited.
- H. Commercial harvest of any fish is illegal without proper permit.

6.4 IT IS UNLAWFUL

- A. To transport or introduce any fish or viable eggs into any waters.
- B. It is unlawful for non-members to loan or transfer their fishing license to another.
- C. To leave or dump any dead animal, fish, garbage, or litter in or on property where public recreation is permitted.
- D. To take or possess more than the daily limit of fish unless otherwise specified under special management regulations.
- E. To carry or use firearms while fishing.

CHAPTER 7: RECREATION

7.1 DEFINITIONS

"Recreation" means all activities other than fishing, hunting or trapping. These activities include, but are not limited to: camping, hiking, fish and wildlife viewing/photography, bicycling, hang gliding, swimming, and skiing.

7.2 ANNUAL REGULATIONS

Season dates, limits, and designated restricted areas for recreational activities will be determined annually by the Fish and Wildlife Commission, as advised by the Fish and Wildlife Department.

7.3 PROHIBITIONS

- A. It is unlawful for any non-member or non-Indian to collect or gather:
 - 1. Any plant materials such as berries, fruits, fungi, seeds or cones.
 - 2. Any rocks, fossils, or other geological materials.
- B. It is unlawful for any non-member or non-Indian to carry or use firearms while recreating.

- C. The Fish and Wildlife Commission may grant collection permits for specific purposes, as advised by the Fish and Wildlife Department and the Natural Resources Department.

7.4 DESIGNATED RECREATION AREAS

The Fish and Wildlife Commission shall designate camping areas and other areas for specific recreation activities, as advised by the Fish and Wildlife Department.

7.5 GROUP PERMITS

Group recreation permits for educational, cultural, or social groups such as: churches, schools, colleges, universities, trail rides, and non-employee training activities may be obtained by submitting a written request to the Fish and Wildlife Department. Specific restrictions may be applied to these permits.

CHAPTER 8: TAGS

8.1 SPECIES WHICH REQUIRE TAGS

- A. Permits or tags must be attached to all big game species, wild turkey, and bobcat. Permits will serve as tags unless the annual hunting or trapping permit validates the taking of more than one individual or species, in which case the Fish and Wildlife Department shall issue tags.
- B. Evidence of sex must remain attached to the tagged carcass in the field and during transportation.
- C. Tags shall be carried by the permittee at all times while hunting those species which require tags. No big game, bobcat, or turkey shall be transported, stored or possessed unless the tag has been securely attached.
- D. For each tag used to tag a harvested animal, the hunter or trapper must provide the following items of information to the Fish and Wildlife Department, and Northern Cheyenne Tribe no later than 30 days after the close of the applicable Season:
1. Species of animal killed.
 2. Sex of animal killed.
 3. For deer or elk, the number of points or if a spike.
 4. Date animal was killed.
 5. Approximate location of kill.

This information is needed to obtain a profile of the game harvest to aid in setting future seasons and proper management of game on the Northern Cheyenne Indian Reservation.

- E. It is the responsibility of each trapper to report the total number of furbearers trapped at the close of the trapping season.

CHAPTER 9: PROTECTED SPECIES

9.1 THREATENED AND ENDANGERED SPECIES

The following list of species are federally classified as endangered or threatened with extinction and are protected from all taking or harassment on the Northern Cheyenne Indian Reservation:

- A. Grizzly Bear
- B. Bald Eagle
- C. Peregrine Falcon
- D. Whooping Crane
- E. Black-footed Ferret
- F. Gray Wolf
- G. Pallid Sturgeon

9.2 PROTECTED SPECIES OF BIRDS AND MAMMALS

All the following list of mammals and birds are completely protected from any taking on the Northern Cheyenne Reservation:

- A. Golden Eagle
- 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 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, swallows, swifts, hummingbirds, nighthawks, kingfishers, jays, ravens, wrens, thrushes, chickadees, bluebirds, vireos, warblers, blackbirds, and sparrows (Orders Caprimulgiformes, Apodiformes, Piciformes, and Passeriformes)

- G. Lynx, river otter, wolverine, fisher, and marten.

CHAPTER 10: GENERAL REGULATIONS

10.1 FIREARM RESTRICTION:

- A. The use of firearms with a barrel bore diameter of less than 0.23 (23/100) of an inch, or chambered to fire a cartridge less than two inches in overall length, or muzzle loaders less than 45 caliber, will not be allowed for the hunting of big game.
- B. Firearms for hunting upland game birds and waterfowl are restricted to shotguns smaller than ten gauge in size.
- C. Cross Bows and muzzle loaders can be used in firearm season(s).
- D. The use of fully automatic weapons or devices designed to silence or muffle the sound of any firearm for hunting any wildlife is prohibited.
- E. The use or carrying of firearms is prohibited while fishing or recreating, except by authorized personnel.

10.2 USE OF ARTIFICIAL LIGHT TO HUNT PROHIBITED: As stated in 7-10-6 of the Northern Cheyenne Law and Order Code, hunting or fishing by using artificial light is prohibited. Nor shall any person use radio communication or night scope for the hunting of any game animal.

10.3 SALE OF GAME AND BLOOD ANTLERS PROHIBITED: No person shall sell, offer for sale, barter, have in possession with intent to sell, or obtain by sale or barter any wildlife, blood antlers, or any edible portion of any game animal, bird or fish.

10.4 WANTON WASTE OF GAME PROHIBITED:

- A. No person shall take, abandon or allow any upland game bird, waterfowl, game fish, or big game animal, or edible portion thereof, to intentionally or needlessly go to waste.
- B. The failure of any person to properly dress and care for any big game animal killed by that person, and, if the carcass is reasonably accessible, within 48 hours to take or transport the carcass to the camp of that person, and there properly care for the carcass, is prima facie evidence of a violation.

10.5 HOURS FOR HUNTING GAME ANIMALS: 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.

10.6 SHOOTING FROM OR ACROSS ROADS PROHIBITED: No person shall fire any firearm from, upon, along, or across any public road or highway. Public roads on the reservation include: Federal Highway 212, State Highway 39, Road 8 (from Highway 212 south to the Reservation border near Kirby), Muddy Creek Road (up to eleven miles south of highway 212), and Bureau of Indian Affairs (BIA) Road 11 (from Birney village north to State Highway 332).

10.7 HUNTING BIG GAME OR TURKEY WITH DOGS PROHIBITED: No person shall use dogs to track, chase, kill, or in any other way hunt big game animals (except mountain lion) or turkey. Dogs so used or dogs observed harassing big game animals or turkey may be shot by enforcement officers.

10.8 USE OF POISONS PROHIBITED: No person shall use any poisons to take any fish or wildlife unless authorized for specific management purposes.

10.9 UNLAWFUL POSSESSION OF FISH OR WILDLIFE: It shall be unlawful to possess any fish or wildlife or parts thereof unless it can be shown by the possessor that he or she has the requisite authorization by the Tribal Fish and Wildlife Department to hunt or take such animal.

10.10 HUNTING WITH FIREARM INTOXICATED OR CARELESSLY:

- A. In accordance with the Northern Cheyenne Law and Order Code, it shall be unlawful for any person to carry a loaded firearm or take any wildlife while intoxicated or under the influence of a controlled substance.
- B. It shall be unlawful for any person to handle or discharge a firearm in a careless or reckless manner or with wanton disregard for the safety of human life and property.

10.11 CONCEALMENT OF WILDLIFE UNLAWFULLY TAKEN OR POSSESSED: No person shall knowingly aid or assist in the concealment of any fish or wildlife that has been unlawfully taken or is unlawfully possessed.

10.12 HUNTING ON PRIVATE PROPERTY OR NEAR BUILDINGS WITHOUT PERMISSION:

- A. As stated in 7-6-6 and 7-6-7 of the Northern Cheyenne Law and Order Code, trespassing is prohibited.
- B. No person shall hunt or discharge firearms within 200 yards of an occupied building, whether on privately-owned or Tribal land, without the consent of the person(s) occupying such building.

10.13 DESTRUCTION OF PRIVATE OR PUBLIC PROPERTY: No person shall deface, shoot at, or destroy public or private property, including signs, fences, livestock, and improvements.

10.14 HUNTERS REQUIRED TO WEAR FLORESCENT ORANGE: No person shall hunt any big game animal without wearing 400 square inches of florescent orange above the waist, visible at all times during big game firearm season.

10.15 HIRING ANOTHER TO HUNT OR HUNTING FOR REMUNERATION: No person shall hire another person to hunt game for him/her nor shall any person hunt game animals for another in return for payment of goods, services, or money.

10.16 TAKING BIRDS: No person shall take or injure any bird or harass any bird upon its nest, or remove the nest or eggs of any bird, except as may occur in normal horticultural and agricultural practices and as may be authorized by the Tribal Fish and Wildlife Department.

10.17 BAITING: No person shall use salt, grain, wildlife, or any other attractant while hunting (predator control exempt).

10.18 AERIAL HUNTING: No person shall hunt or harass animals from any aircraft. Any violation of this rule shall be reported to the Federal Aviation Authority. Aerial surveillance within 24 hours prior to hunting is prohibited.

10.19 INTRODUCTION OF EXOTIC SPECIES: The introduction of exotic species not native to the Reservation is unlawful without the consent of the Northern Cheyenne Fish and Wildlife Department.

10.20 KEEPING WILDLIFE IN CAPTIVITY OR ATTEMPTING TO DOMESTICATE WILDLIFE:

- A. It shall be unlawful to keep wildlife in captivity or attempt to domesticate wildlife on reservation, unless:
1. There is no possibility of the animal surviving by itself in the wild and the permission of the Conservation Officer is obtained and the care of the animal is supervised by the Conservation Officer.
 2. A special permit is authorized by the Fish, and Wildlife Department for breeding or education purposes.
 3. The wildlife was purchased for authorized business purposes and the owner retains the bill of sale.
- B. Game Farms are prohibited.

10.21 OTHER PROHIBITED ACTIVITIES

Except as otherwise provided by this Ordinance, in addition to all other activities prohibited by this Ordinance, it shall be unlawful for any person to:

- A. Take or harass wildlife from a motorized vehicle. Exceptions are made for handicap tribal member and elderly tribal member persons.
- B. Pollute any tribal body of water owned by the tribe.
- C. Hunt in any manner or place not permitted by Northern Cheyenne Tribal regulations.
- D. Obtain by fraud or misrepresentation a permit to hunt or trap on the Reservation.
- E. Take, possess, transport, import, trade, buy, sell, or offer for sale big game within the Reservation, except as permitted by this Ordinance.
- F. Detach or remove, or attempt to detach or remove, from the carcass of a big game animal, turkey, or bobcat, a portion thereof for the purpose of misrepresenting or concealing the species or sex of the animal.

- G. Use any explosive compound or corrosive, narcotic, poison or other deleterious substance for the purpose of taking, stunning, or killing fish, birds, small game or big game.
- H. Take, possess, transport, buy, sell, or offer for sale any migratory bird taken on the Reservation, except as permitted by this Ordinance.
- I. Carry, transport, or possess devices for taking game within or upon a game refuge, except as permitted by this Ordinance.
- J. Enter any special use area of the Reservation and/or Tribal properties without a proper Special Use Permit.
- K. Disobey a lawful order of any authorized officer.
- L. Cross-country ski, snowmobile, sled, tube, or toboggan in key wildlife winter critical habitat areas closed to such activities upon public notice from the Northern Cheyenne Fish and Wildlife Department.

CHAPTER 11: CULTURAL MATTERS

11.1 CULTURAL TAKING: It shall be lawful for any member to take any wildlife for traditional Cheyenne religious purposes provided they obtain a permit from the Northern Cheyenne Fish and Wildlife Department. To determine whether a taking is in fact for religious purposes, the Administrative Officer shall consult with any Society member(s) or Headman.

11.2 ASSISTANCE IN OBTAINING FEDERAL PERMITS: The Fish and Wildlife Department shall assist tribal members who desire to apply for federal permits to obtain or possess eagle feathers or other wildlife material from the United States Government.

CHAPTER 12: WILDLIFE HABITAT PROTECTION

12.1 DEFINITION: "Road" means any maintained road that has been utilized by the public.

12.2 RESTRICTIONS ON MOTOR VEHICLE USE: When the Northern Cheyenne Tribe determines that the operation of motor vehicles within a certain area is or may be damaging to wildlife reproduction, wildlife management, wildlife habitat, or special studies, the Northern Cheyenne Tribe may order the area closed to motor vehicles for a designated period of time, provided that all roads in the area shall remain open unless specifically closed.

12.3 NOTICES OF RESTRICTIONS; POSTING; PUBLICATION

- A. For all areas specified pursuant to Section 11.2, the Northern Cheyenne Tribe shall cause notices of the restrictions, prohibitions, or permitted uses of such area to be posted. Posted notices at such locations will include information on the date of changes in use and the main roads and highways entering such area.

- B. In addition to the posted notices required by subsection A of this section, the Northern Cheyenne Tribe shall cause a notice of such restrictions, prohibitions, or permitted uses, together with a description of the area, to be published three (3) times in a newspaper of general circulation of the Reservation prior to the effective date of such changes in use.

12.4 EXCEPTIONS

The restrictions, prohibitions, or permitted uses established pursuant to section 11.2 shall not apply to:

- A. Public employees acting within the scope of their employment.
- B. Holders of valid licenses. Holders of such licenses shall be limited to the specified purposes and area of travel for which such licenses were issued or granted.
- C. Emergency situations, such as fires or other disasters, or when otherwise necessary to protect life or property.

CHAPTER 13: PENALTIES AND ENFORCEMENT

13.1 AUTHORIZED ENFORCEMENT OFFICERS

All Northern Cheyenne Conservation Officers and other Authorities or Officials designated by the Northern Cheyenne Tribe shall have the authority and the duty to enforce the provisions of the Fish, Wildlife and Recreation Ordinance and shall be referred to in this Ordinance as "Authorized Officers".

13.2 PENALTIES

- A. Maximum Civil and Criminal Penalties: Any person violating any rule or regulation shall be liable for a civil fine of up to five thousand dollars (\$5000.00). The exact amount is to be determined by regulation as provided in the following subsection, provided that tribal members may alternatively be charged with a criminal violation of this Ordinance. Criminal violations shall be punishable by a criminal fine of \$5000.00 and/or a jail term of up to six (6) months. The exact amount of the criminal fine shall be determined by regulation as provided in the following subsection.
- B. Determination of Liquidated Damages: The Tribal Fish and Wildlife Commission shall prepare, and at least once per year shall review, and as necessary, revise, a schedule of liquidated Damage Amounts calculated to closely approximate the cost of providing equitable restitution to the Tribe for the damage which would be caused by each violation of each rule or regulation.
- C. Liquidated Damages Presumptions:
1. Since in most instances the exact amount of damages caused to the Tribe by a particular violation of this Ordinance would be difficult to determine, it shall be presumed by the Court adjudicating a complaint for violation of this Ordinance, that

the amount fixed by the schedule of Liquidated Damages Amounts represents the damages owed to the Tribe as restitution if the defendant is found to be liable. This presumption may be rebutted by competent evidence which shows to a substantial certainty that the amounts indicated by the schedule of Liquidated Damage Amounts is so excessive in a particular case as to be punitive.

2. All persons shall be deemed to have consented to the liquidated damage provisions of this Ordinance by their entry, with notice, onto the reservation, and where applicable, by their application for tribal permits.
3. Civil liability to Tribe; Non-members/Non-Indians only: In addition to any other penalty allowed by this Ordinance, the Tribal or Federal Court may award to the Tribe or, in addition to an action to impose penalties, the Tribe may bring a civil action for recovery of damages against any person(s) unlawfully taking, killing, possessing, transporting or wasting any of the following named fish, wildlife or plant species, or any part thereof, and the sum assessed for damages for each fish, wildlife or plant species shall not be less than the amount stated herein:

<u>BIG GAME</u>	<u>MALES</u>	<u>FEMALES</u>
a. Deer	\$ 150.00	\$ 300.00
b. Antelope	150.00	300.00
c. Bear	1000.00	1000.00
d. Elk	1000.00	1000.00
e. Moose	1000.00	1000.00
f. Buffalo	1000.00	1000.00
g. Bighorn Sheep	1000.00	1000.00
h. Turkey	75.00	75.00
I. Mountain lion	500.00	1000.00

<u>SMALL GAME</u>	<u>MALES</u>	<u>FEMALES</u>
j. Ducks	25.00	50.00
k. Geese	50.00	100.00
l. Pheasants	25.00	50.00
m. Grouse	25.00	50.00
n. Mourning Dove	20.00	40.00
o. Hungarian Partridge	25.00	50.00
p. Rabbits	10.00	20.00

<u>FUR-BEARERS</u>	<u>MALES</u>	<u>FEMALES</u>
q. Coyote	75.00	100.00
r. Fox	75.00	100.00
s. Beaver	50.00	100.00
t. Bobcat	300.00	500.00
u. Mink	50.00	100.00
v. Raccoon	50.00	100.00

w.	Weasei	30.00	60.00
x.	Badger	30.00	60.00
y.	Porcupine	30.00	60.00

FISH: All fish, with the exception of Pallid Sturgeon, will have a value of \$10.00 per inch.

NON-GAME SPECIES: All species in the following orders will have a value of \$100.00: loons, grebes, herons, egrets, and bitterns, pelicans and cormorants, cranes, rails, and coots, shorebirds, gulls, and terns. All birds of prey including vultures, hawks, falcons, eagles, and owls will have a value of \$500.00. All other non-game birds will have a value of \$50.00.

D. Punitive Damages:

1. Nothing in this Ordinance shall be deemed to preclude the Tribe, through its counsel, from requesting and being awarded punitive damages in any complaint filed for a violation of the rules and regulations wherein it is alleged that the violator(s) has committed the acts constituting the violation wantonly, willfully, or maliciously.
2. The court, in assessing punitive damages, shall determine their amount in the same manner in which it would determine punitive damages in any other civil action.

E. Contempt: All defendants to actions brought under this Ordinance whether member or non-member, shall be subject to the civil contempt power of the Northern Cheyenne Tribal Court, and may be sanctioned by any means provided for in the Northern Cheyenne Tribal Ordinance for civil contempt, including, but not limited to, imprisonment to compel compliance with a lawful court order.

F. Revocation of Permit: In addition to other penalties, the judge may revoke the violator's permit and require that the violator not be eligible for further permits under these rules for any period up to five (5) years.

G. Revocation of Permits or Leases for the Use of Tribal Lands: In addition to other penalties, the judge may request the Tribal Fish and Wildlife Commission to begin cancellation procedures for any lease or permit for the use of tribal lands owned by the violator, provided that the lease provisions clearly state that violation of these rules or regulations may subject the permittee or lessee to cancellation procedures.

H. Expulsion: Nothing in these rules shall be deemed to preclude the use of remedy of expulsion of non-members for violation of these rules and regulations and any authorized officer may follow the procedure provided by tribal law to initiate an action for expulsion in addition to or in lieu of any other enforcement procedure provided for in these rules.

I. Criminal Violation: If a member commits any offence, the officer may elect to charge the member with a criminal violation as provided in Section 2A of this Chapter. In addition to a criminal fine equal to the liquidated damage civil fine penalty, a member criminal violator may have imposed upon him by a Judge, a jail term of up to six (6) months.

13.3 PUBLIC NOTICE

- A. Signs shall be posted conspicuously along the boundaries of Tribal Properties and at all roadway points of entry putting the public on notice that:
 - 1. Hunting, fishing, and camping are strictly regulated and permits are required.
 - 2. Violators of tribal regulations are trespassing and are subject to court action, expulsion and seizure of property.
 - 3. Visitors must inquire locally for permits and recreation information.
- B. Roadway signs shall be of sufficient size and placement to enable motorists traveling at the speed limit to read them in their entirety.

CHAPTER 14: CIVIL AND CRIMINAL PROCEDURE

Except as otherwise provided in this Ordinance, the Civil and Criminal Procedure Codes of the Northern Cheyenne Tribe shall govern all questions of procedure arising as a result of the enforcement of these rules and regulations.

14.1 CIVIL COMPLAINTS

Except as otherwise provided in these rules, all matters arising under these rules and regulations shall be adjudicated in the Northern Cheyenne Tribal Court following the filing of a civil complaint naming the Northern Cheyenne Tribe as plaintiff, by the authorized officer alleging the violation, or by the prosecutor for the Tribe.

14.2 REPRESENTATION OF THE TRIBE

The Tribal Prosecutor (or, in the case of conflict of interest, such other counsel for the Tribe as the Tribal Council may designate) shall represent the Tribe in all actions arising under this Ordinance to which the Tribe is a party, whether such actions are civil or criminal.

CHAPTER 15: PROOF OF IDENTITY

15.1 FAILURE TO OFFER PROOF OF IDENTITY

It shall be unlawful for any person reasonably suspected of violating this Ordinance who is able to offer proof of his/her identity to willfully refuse to do so to an authorized officer who, after identifying himself/herself as such, demands such identification.

15.2 PROBABLE TRIBAL MEMBER

Any person who an authorized officer reasonably believes to have violated this Ordinance and who refuses to or cannot identify himself/herself may, if the officer has reasonable grounds to believe he/she is a tribal member, be arrested and transported to the tribal jail pursuant to Tribal law governing the arrest of persons for citable offenses. The complaining officer shall issue and file a Notice to Appear according to the procedures of these rules, substituting for the suspected violator's name a fictitious name such as John Doe.

15.3 PROBABLE NON-MEMBER

Any person who an authorized officer reasonable believes to have violated this Ordinance and who refuses to or cannot identify himself/herself may, if the officer does not have reasonable grounds to believe that such person is a tribal member, be arrested and transported according to the procedures provided by Tribal law for the initiation of federal prosecution or expulsion. The complaining officer shall initiate such federal prosecution and/or expulsion and/or issue and file a Notice to Appear according to the procedure of this Ordinance, substituting for the suspected violator's name a fictitious name.

15.4 DETERMINATION OF TRUE NAME

Upon determination of the true name of any defendant designated by a fictitious name in a complaint, the complaining officer or the prosecutor for the Tribe shall amend the complaint to reflect the defendant's true name.

CHAPTER 16: CONFISCATED PROPERTY

16.1 DISPOSITION OF CONFISCATED PROPERTY

- A. Fish and wildlife confiscated pursuant to this Chapter may be donated to needy individuals or sold by the Fish and Wildlife Commission with authorization from the Tribal Court.
- B. Equipment, motorized vehicles, or aircraft used in violation of this title shall be disposed of at public auction.
 - 1. Notice or reasonable attempt of sale must be provided to the owner of the equipment no later than ten (10) days prior to the sale.
 - 2. Notice shall be published at least once one week prior to the sale in the Tribal or local newspaper.
 - 3. Sale shall be made to the highest bidder.

16.2 RECORD OF CONFISCATED PROPERTY

Any law enforcement officer who seizes property shall keep a record of all property that has been confiscated pursuant to this title. The record shall include the date the property was seized, the owner of the property, the person from whom the property was confiscated, and a description of the property.

16.3 PROCEEDS OF SALE

The Tribal Fish and Wildlife Department shall maintain a record of all proceeds received from the sale of equipment and illegally taken fish and wildlife. These funds shall be deposited in the Tribal Fish and Wildlife fund.

CHAPTER 17: CHECK STATIONS

Authorized officers may set up check stations on any road or highway on the Reservation. It shall be unlawful for any hunter to fail to stop and submit to an inspection by the officers.