

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION  
As Amended through Resolution No. 04-022 (April 12, 2004)*

# FISH AND WILDLIFE CODE

CONFEDERATED TRIBES  
OF THE  
UMATILLA INDIAN RESERVATION

**FISH AND WILDLIFE CODE**

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**FISH AND WILDLIFE CODE**

**CHAPTER 1. GENERAL PROVISIONS**

**SECTION 1.01. DEFINITIONS**

A. As used in this Code, the words and phrases below are defined as follows:

1. "Agency" means the Umatilla Agency of the Bureau of Indian Affairs.
2. "Angling Gear" means one line attached to a pole held in hand or one hand operated line without pole to which may be attached not more than three hooks
3. "Artificial Light" means any light produced by other than a natural source such as the including but not limited to, a spotlight, flashlight, or vehicular headlights.
4. "Bag Limit" means the number of each species of wildlife that may be taken each day by any one person.
5. "Bartering" means an exchange between parties of goods or commodities or other goods, and shall exclude any exchange between parties consisting of money, except as allowed in section 5.07.
6. "BIA" means the Bureau of Indian Affairs.
7. "Big Game" means:
  - a. Black Bear - *Ursus americana*
  - b. Rocky Mountain Mule Deer - *Odocoileus hemonius*.
  - c. White-tailed Deer - *Odocoileus virginianus*
  - d. Rocky Mountain Elk - *Cervus elaphus nelsoni*
  - e. Pronghorn Antelope - *Antilocarpa americana*
  - f. Bighorn Sheep - *Ovis canadensis*
  - g. Moose - *Alces alces*
8. "Board" means the Board of Trustees of the Tribes, or any successive governing body, established pursuant to the provisions of Article VI of the Constitution.
9. "Ceremonial Fishing" means fishing with gill nets or legal gear other than normal subsistence fishing gear, when such fishing has been authorized in advance by the Commission, for the purpose of taking a specified quantity of fish for use in traditional tribal ceremonies or religious occasions which are sponsored by the Tribes or some recognized traditional or religious group within the Tribes and which is subject to participation by a significant portion of the membership.
10. "Closed Season" means the period of time during which the taking of any wildlife is prohibited. All hunting, fishing, and trapping seasons within the purview of this Code shall be closed unless stated otherwise in this Code or unless specifically opened by action of the Commission.
11. "Commercial Fishing" means fishing for purposes of selling or trading fish for money, property or other consideration, except to the extent that such fishing may constitute subsistence fishing as defined by the provisions of this Code.

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12. "Commission" means the Fish and Wildlife Commission appointed by the Board.
13. "Constitution" means the Constitution and Bylaws of the Tribes approved on December 7, 1949.
14. "Court" means the Umatilla Tribal Court.
15. "Decoy" means any simulation or replication of wildlife, in whole or in part.
16. "Domicile" means that place which the person establishes as his true fixed and permanent home for an unlimited or indefinite period, to which he has the intention of returning whenever he is absent.
17. "Endangered Species" means any species designated by this Code or by Commission regulation determining that the species is in danger of extinction throughout all or a significant portion of its range on or off the Reservation.
18. "Fish" means:
  - a. Summer Steelhead - *Oncorhynchus mikis*
  - b. Rainbow Trout - *Oncorhynchus mikis*
  - c. Brook Trout - *Salvelinus fontinalis*
  - d. Bull Trout - *Saivelinus confluentus*
  - e. Dolly Varden - *Salvelinus malma*
  - f. Largemouth Bass - *Mcropterus salmoides*
  - g. Crappie - *Pomoxis nigromaculatus*
  - h. Brown Bullhead - *Ictalurus nebulosus*
  - i. Yellow Bullhead - *Ictalurus natalis*
  - j. Chinook Salmon - *Oncorhynchus tshawytscha*
  - k. White Sturgeon - *Acipenser transmontanus*
  - l. American Shad - *Alosa sapidissima*
  - m. Walleye - *Stizostedion vitreum*
  - n. Dace (Speckled) - *Rhinichthys osculus*
  - o. Redside Shiner - *Richardonious balteatus*
  - p. Northern Pikeminnow - *Ptychocheilus oregonensis*
  - q. Sucker (large scale) - *Catostomus macrocheilus*
  - r. Chiselmouth - *Acrocheilus alutaceus*
  - s. Carp - *Cypfinus carpio*
  - t. Cottid – *Cottus*

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- u. Lamprey (Pacific) - *Entosphenus tridentatus*
- 19. "Fishing" means any effort to take fish in waters on the Umatilla Indian Reservation, or in off-Reservation waters in which the Confederated Tribes has treaty fishing rights.
- 20. "Furbearer" means:
  - a. Beaver - *Castor canadensis*
  - b. Bobcat - *Lynx rufus*
  - c. Cougar - *Felis concolor*
  - d. Marten - *Martes americana*
  - e. Mink - *Mustela vison*
  - f. Muskrat - *Ondatra zibethicus*
  - g. Raccoon - *Procyon lotor*
  - h. Coyote - *Canis latrans*
- 21. "Game Warden" means an individual appointed by the Board or its delegate agency to enforce tribal laws, statutes, codes, or rules regulating hunting, fishing and trapping activities.
- 22. "Gathering" – See "Subsistence Gathering", below.
- 23. "Hook" - A double point or treble point hook is classified as one hook.
- 24. "Hunting" means any effort to take birds, mammals, amphibians or reptiles on the lands or in the waters of the Umatilla Indian Reservation or on the off-Reservation lands or waters in which the Confederated Tribes have treaty hunting rights, including trapping.
- 25. "Indian" means any adult person enrolled, or any minor person enrolled or eligible for enrollment, in a federally recognized Indian tribe.
- 26. "May" means a power or requirement which is discretionary rather than mandatory.
- 27. "Non-Indian" means any person not defined as an Indian, above.
- 28. "Non-member" means any person not enrolled with the Tribes.
- 29. "Non-member Indian" means any person defined as an Indian, above, but not enrolled with the Tribes.
- 30. "On or near the Reservation" means within the boundaries of the Umatilla Indian Reservation or in the vicinity of the reservation within Umatilla County.
- 31. "Open Season" means the period of time during which the taking of wildlife is permitted by provisions of this Code or rules and regulations promulgated pursuant thereto .
- 32. "Person" means any natural person or artificial entity, including but not limited to, any partnership, corporation or association.

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33. "Possession Limit" means the daily bag limit or aggregate daily bag limit, whichever applies to wildlife that any one person may have in custody between the place where taken and his personal abode.
34. "Public Highway" means the traveled portion of any vehicular thoroughfare which is maintained with public funds for public use.
35. "Reservation" means those lands and waters reserved by the Tribes in the Treaty for their use and benefit.
36. "Rule or Regulation" means any directive, standard or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or requirements of any provisions of this Code.
37. "Section" means a section of this Code unless another law, statute, code, regulation or rule is referred to specifically.
38. "Section (c) Member" means a person who is duly enrolled in the Tribes under Article IV, section (c) of the Constitution and, thus, specifically excluded from exercising the treaty rights of the Tribes.
39. "Shall" means a power or requirement which is mandatory rather than discretionary.
40. "Shotgun" means a smooth bore shoulder weapon for firing shots or slugs at relatively short range.
41. "Small Game" means:
  - a. Cottontail - *Sylvilagus nuttalli*
  - b. Jack Rabbit - *Lepus californicus*
  - c. Snowshoe Hare - *Lepus americanus*
42. "Subsection" means a subsection of this Code unless another law, statute, code, regulation or rule is referred to specifically.
43. "Subsistence Fishing" means the taking of fish for the personal use of Indians, including the sale or exchange with other Indians for their personal use but not sale or trade with Non-Indians.
44. "Subsistence Gathering" means the collecting of traditional foods, medicines and other natural materials from non-wildlife sources for the personal use of Indians, including the sale or exchange with other Indians for their personal use but not sale or trade with non-Indians.
45. "Take" means any effort to kill, capture, catch, hunt, pursue or trap wildlife in the waters or on the lands of the Reservation, or in off-reservation waters or on off-reservation lands in which the Tribes have treaty rights.
46. "Trapping" means any effort to take or attempt to take birds, mammals, amphibians, or reptiles with a trap, net, snare or other device used for the purpose of capture in the waters or on the lands of the Reservation, or in off-reservation lands or waters in which the Tribes have treaty rights. For the purpose of this Code, trapping shall be governed by the provisions relating to hunting.
47. "Treaty" means the Treaty of June 9, 1855, between the Tribes and the United States Government as set forth in 12 Stat. 945.

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48. "Treaty Hunting Rights" or "Treaty Hunting Privileges" or "Treaty Fishing Rights" or "Treaty Fishing Privileges" means any hunting or fishing right or privilege which is derived from the Treaty.
49. "Tribal Member" means a person who is enrolled in the Tribes and is authorized under the Constitution of the Tribes to exercise treaty reserved rights.
50. "Tribal police" means the Umatilla Tribal Police Department or any other law enforcement officer authorized to enforce tribal laws.
51. "Tribes" or "Tribal", capitalized, means the Confederated Tribes of the Umatilla, Walla Walla and Cayuse Tribes as identified by the Treaty, unless expressly indicated otherwise. However, "tribes" or "tribal", not capitalized, means all Indian tribes, generally.
52. "Unclaimed Lands" means those lands which:
  - a. Have not been occupied by settlers; and
  - b. Have no outward or visible indication of private ownership, or
  - c. Are lands to which the United States holds title, including, but not limited to, national forest land and such other lands where hunting may be undertaken without danger to lives or property; or
  - d. Those lands expressly determined by the federal courts to be unclaimed lands within the meaning of that phrase as used in the Treaty
53. "Upland Game" means:
  - i. Morning Dove - *Zenaidura macroura*
  - ii. Blue Grouse - *Dendragopus obscurus*
  - iii. Ruffed Grouse - *Bonasa umbellus chukar*
  - iv. Partridge - *Alectoiiis graeca*
  - v. Hungarian Partridge - *Perdix perdix*
  - b. Ring-necked Pheasant - *Phasianus cochinchensis*
  - c. Valley Quail - *Lophortyx californica*
  - d. Wild Turkey - *Meleagris gallopavo*
  - e. Mountain Quail - *Oreortyx picta*
  - f. Sage Grouse - *Centrocercus urophasianus*
54. "Waterfowl" means:
  - a. Canada Goose - *Branta canadensis*
  - b. Mallard - *Anas platyrhynchos*
  - c. Gadwall - *Anas strepera*
  - d. Pintail - *Anas acuta*

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- e. Green-winged Teal - *Anas carolinensis*
- f. Blue-winged Teal - *Anas discors*
- g. Cinnamon Teal - *Anas cyanoptera*
- h. American Widgeon - *Anas americana*
- i. Shoveller - *Apatula clypeata*
- j. Wood Duck - *Aix sponsa*
- k. White-fronted Goose - *Anser albifrons*
- l. Snow Goose - *Chen caerulescens*
- m. Redhead - *Aythya americana*
- n. Canvasback - *Aythya vallisneria*
- o. Ring-necked Duck - *Aythya collaris*
- p. Lesser Scaup - *Aythya affinis*
- q. Common Goldeneye - *Bucephala clangula*
- r. Barrow's Goldeneye - *Bucephala islandica*
- s. Bufflehead - *Bucephala albeola*
- t. Ruddy Duck - *Oxyura jamaicensis*
- u. Common Merganser - *Mergus merganser*
- v. Red-Breasted Merganser - *Mergus serrator*
- w. American Coot - *Fulica americana*
- x. Hooded Merganser - *Lophodolopus cucullatus*
- y. Common Snipe - *Capella gallinago*

55. "Wildlife" means all wild birds, mammals, fish, amphibians and reptiles.

- B. All other words and phrases shall be interpreted as commonly used. If a word or phrase has a meaning distinct to tribal culture, that meaning shall be used in appropriate circumstances.

**SECTION 1.02. TREATY RIGHTS STATED**

- A. Pursuant to the Treaty, Tribal Members may hunt and trap without restriction imposed by state laws, but subject to season and bag restriction imposed by the Commission on all unclaimed off-reservation lands.
- B. Pursuant to the Treaty, Tribal Members have the exclusive right of taking fish in streams running through and bordering the reservation and at all other usual and accustomed stations in common with the citizens of the United States.

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**SECTION 1.03. PURPOSE AND DECLARATION OF POLICY**

The Board finds that:

- A. The Tribes have jurisdiction over all wildlife and subsistence gathering resources now and in the future found upon lands and waters of the Reservation, including fee lands, to the exclusion of state jurisdiction; and
- B. The Tribes, and all those subject to their jurisdiction, shall develop and manage all lands and waters of the Reservation in a manner that enhances production of wildlife and subsistence gathering resources and naturally sustaining wildlife habitat; and
- C. The Tribes, and all those subject to their jurisdiction, shall preserve, protect, and perpetuate all wildlife and subsistence gathering resources in accordance with this Code, for the benefit of Tribal Members; and
- D. The Tribes, and all those subject to their jurisdiction, may use wildlife for the sport and recreation of non-members pursuant to rules, regulations and conditions established by the Commission in accordance with this Code; and
- E. The Tribes intend to exercise control over fishing, gathering, hunting and trapping activities to the fullest extent of the Tribes' jurisdiction. No court shall construe anything in this Code to abridge, diminish or abrogate any treaty right of the Tribes.
- F. The Tribes intend to preserve, protect and enhance their traditional ways and lifestyles by managing wildlife and subsistence gathering resources and regulating fishing, gathering, hunting and trapping in a manner sensitive to their traditional culture.

**SECTION 1.04. JURISDICTION**

- A. This Code applies to all persons fishing, gathering, hunting or trapping within the boundaries of the Reservation.
- B. This Code applies to Tribal Members fishing at all usual and accustomed stations and hunting or trapping on all unclaimed lands outside the boundaries of the Reservation, including, but not limited to, the national forests.
- C. This Code preempts any state jurisdiction and it is no defense that an alleged activity is lawful under state law.

**SECTION 1.05. COLUMBIA RIVER INTER-TRIBAL FISHERIES ENFORCEMENT CODE**

This Code, and any rules or regulations adopted under it, shall take precedence over the Columbia River Intertribal Fisheries Enforcement (CRITFE) Code. However, any violation of the CRITFE Code shall be a violation of this Code unless inconsistent with this Code.

**SECTION 1.06. CRITFE AUTHORIZATION**

Any officer of the CRITFE is authorized to enforce the provisions of this Code that apply to off-reservation treaty fishing activity in the Columbia River area to the same extent as that of the Tribal police.

**CHAPTER 2. THE FISH AND WILDLIFE COMMISSION**

**SECTION 2.01. COMMISSION**

Pursuant to Article IV, section 1(c)-(d) of the Constitution and Bylaws of the Confederated Tribes, the Board establishes and maintains a Fish and Wildlife Commission and delegates to it the powers

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and responsibilities outlined in this Code. The Commission shall be composed of five (5) members who shall be enrolled Tribal Members. No Tribal member may be a member of the Commission if he or she has been convicted of a violation of this Code by the Tribal Court within the past ten years or had a permit revoked or denied under this Code by the Commission within the past five years.

**SECTION 2.02. OFFICERS OF THE COMMISSION**

The Board shall appoint the Chair of the Commission from the Board membership. The Commission shall elect from their number a vice-chair and a secretary. No Commission action is valid unless at least three members agree to the proposed action. The officers shall have the powers designated by this Code or by the Commission's Bylaws.

**SECTION 2.03. SUPPORT SERVICES**

The Board shall provide support services to the Commission, including, but not limited to:

- A. Secretarial and clerical assistance;
- B. Service as a public information outlet;
- C. Regulating the distribution and selling of Tribal licenses to non-members pursuant to this Code and collecting all fees remitted for licenses, whether collected at Tribal offices or other outlets;
- D. Posting and publishing notices required under this Code;
- E. Maintaining an accurate and complete system of documents required under this Code;
- F. Maintenance and publication of regulations by DNR Wildlife and Fisheries Programs; and
- G. Other administrative functions authorized by this Code, by the Board, or by the Commission.

**SECTION 2.04. ANNUAL BUDGET**

The Commission shall prepare annually a budget identifying priority uses for money received from license fees. The Commission shall submit the budget priorities in the form of a recommendation to the Board before the close of each fiscal year. The budget is effective upon approval by the Board.

**SECTION 2.05. GENERAL DUTIES OF THE COMMISSION**

- A. The Commission shall formulate and implement the policies and programs of the Reservation for the management of Wildlife, including the issuance of rules and regulations as necessary.
- B. The Commission shall work with the Law & Order Commission to enforce this Code.
- C. The Commission shall adopt Bylaws, approved by the Board, to guide the conduct of the Commission's duties. The Bylaws shall include, but are not limited to, provisions addressing removal, terms, per diem, etc.
- D. The Commission shall have policy oversight over the DNR Wildlife, Fisheries and Environmental Planning/Rights Protection Programs, or their programmatic successors.

**SECTION 2.06. DISCRETIONARY POWERS OF THE COMMISSION**

- A. The Commission may establish open seasons for the taking of wildlife under this Code. Within one month or less after the season is set, the Commission shall:
  - 1. Publish the season once in the tribal newspaper and once in a newspaper of general circulation in Umatilla County;

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2. Post notice of any season set at the Tribal and Agency buildings;
  3. Notify the Law & Order Committee, the Tribal police, and the Board, in writing, of any season set;
  4. Notify the CRITFE, Washington and Oregon State Police and relevant county sheriff offices; and
  5. Notify the fish & wildlife offices and/or committees of the Warm Springs, Yakama and Nez Perce tribes.
- B. The Commission may issue permits and tags as needed to carry out the provisions of this Code, including wildlife transportation permits.
- C. The Commission, in carrying out the provisions of subsections (A) and (B) of this section may:
1. Establish the amount of each wildlife species that may be taken in terms of sex, maturity and other physical distinctions;
  2. Establish areas or territorial limits for the taking of wildlife;
  3. Establish the manner and means of taking wildlife;
  4. Establish license fees for any seasons or species; and
  5. Establish restrictions on the transportation of wildlife.
- D. The Commission may prescribe rules requiring any Tribal Member or non-member to keep records and make reports concerning the time, manner and place of taking wildlife, the quantities taken, and such other information as the Commission determines necessary for proper enforcement of the Code or to obtain information for use in wildlife management.
- E. The Commission may engage in other programs or actions that will protect, promote or enhance the wildlife resources on the Reservation and the off-reservation wildlife in which the Tribes have an interest by virtue of treaty reserved rights. However, any contractual agreement entered into pursuant to this section is subject to Board approval.
- F. The Commission may suspend or terminate the hunting and fishing rights of any Tribal Member upon a finding by the Commission that the Tribal Member has violated this Code in a willful and flagrant manner. Prior to the suspension or revocation of treaty hunting or fishing rights, the Commission shall provide the Tribal Member subject to the proposed action an opportunity to respond to the charges. The Commission shall send the Tribal Member a notice of the hearing date, which shall identify the charges against the Tribal Member as well as the proposed response. The Commission shall provide notice to the Tribal Member at least ten (10) days before the hearing. The Tribal Member may be represented by an advocate and may present his own witnesses and testimony. The Commission shall notify the Tribal Member, Tribal police, and the Board, of any decision to suspend or terminate a Tribal member's right to exercise treaty rights. The suspension or termination shall remain in effect during an appeal unless stayed, restrained or enjoined by a valid Umatilla Tribal Court decree.
- G. The Commission may revoke any hunting permits issued under this Code if the permittee violates any requirements of this Code or conditions attached to the permit. The Commission shall provide the permittee an opportunity to respond before revoking the permit. The Commission shall mail the final Notice of Revocation to the permittee and notify the Tribal police of the revocation. for a hearing after the Notice of Revocation has been issued.

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- H. The Commission may adopt regulations identifying and protecting specific wildlife species and their habitat on or off the Reservation due to special considerations including, but not limited to, the threat of extinction on the reservation, specific activities threatening populations, nesting areas, special habitat, etc.
- I. The Commission may adopt regulations establishing wildlife refuges on Tribal property with final approval by the Board.
- J. The Commission may adopt regulations limiting the use of firearms near residential areas and individual home sites.
- K. The Commission may require the DNR Fisheries, Wildlife and Environmental Planning/Rights Protection Programs to meet with it periodically to review policies, performance, allocation of staff personnel and budgets and to recommend improvements.

**SECTION 2.07. RULEMAKING AUTHORITY OF THE COMMISSION**

- A. Whenever the Commission deems it necessary or desirable to enact a rule or regulation pursuant to their authority in this Code the procedures outlined in this section or section 2.08 shall apply.
- B. Whenever the Commission proposes to adopt, amend, suspend or repeal any rule or regulation pursuant to this Code, it shall give all Tribal members and other persons affected by the proposed action thirty (30) days to comment on the proposed action.
- C. The Commission proposing the adoption, amendment, suspension or repeal of any rule or regulation shall prepare a notice on its intended action comprised of a brief written statement, which includes:
  - 1. A statement of the Commission's legal authority to promulgate a rule or regulation;
  - 2. A reproduction of the proposed rule and statement of how the rule is intended to meet the need; and
  - 3. The name and address where comments on the proposed action can be sent, as well as the deadline for making comments on the proposed action, the deadline not to be less than thirty (30) days from the date the notice is posted and published.
- D. The Commission shall:
  - 1. Post the notice at Tribal and Agency buildings, the Tribes' convenience store, and URHA mailboxes;
  - 2. Publish it once in the Tribes' newspaper, or, if the Tribes' newspaper is unavailable, once in a newspaper of general circulation in Umatilla County; and
  - 3. Notify the Board, in writing, of the proposed action.
- E. At the end of the time period allowed for comment, as its final action, the Commission may:
  - 1. Adopt the proposed rule or regulation as posted and published;
  - 2. Adopt the proposed rule or regulation after amending it based on comments received;
  - 3. Suspend the effect of a rule or regulation for a designated time period,
  - 4. Reject the adoption of the proposed rule or regulation, or
  - 5. Take any other action it deems necessary or desirable.

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- F. The Commission shall notify the public of any final action taken by the Commission by:
1. Posting the notice at Tribal and Agency buildings, any mini-market or grocery store owned by the Tribes and located on the Reservation, and at URHA mailboxes;
  2. Publishing it once in the Tribes' newspaper or, if the Tribes' newspaper is unavailable, once in a newspaper of general circulation in Umatilla County; and
  3. Notifying the Board, in writing, of the final action.

**SECTION 2.08. EMERGENCY RULEMAKING AUTHORITY OF THE COMMISSION**

- A. Whenever the Commission deems it necessary to act promptly in order to prevent serious injury or prejudice to the public or Tribal interest, the Commission may take emergency action pursuant to this section.
- B. The Commission may take emergency action to adopt or suspend a rule or regulation without prior notice and hearing as required by section 2.07.
- C. An emergency action taken pursuant to this section shall be effective no longer than thirty (30) days. Any emergency action adopted may be finalized at the end of the thirty (30) days provided section 2.07 is complied with. Any rule or regulation temporarily suspended shall become effective at the end of the temporary period unless repealed pursuant to section 2.07.
- D. Within seven (7) days from the date of any emergency action the Commission shall post and publish the appropriate notice in compliance with section 2.07 and inform the Board in writing of the action,

**SECTION 2.09. BOARD REVIEW**

- A. The Board may review or modify any action of the Commission at any special or regular meeting. However, until the Board review, the Commission's action is binding.
- B. The Commission shall submit, in writing, to the Board any action taken pursuant to sections 2.07 and 2.08 within ten (10) days of taking the action.
- C. If the Board modifies any Commission action, the Board Chair shall notify the Commission Chair within 24 hours of the Board's action.

**CHAPTER 3. GAME WARDENS**

**SECTION 3.01. TRIBAL POLICE OFFICERS**

Enforcement of this Code is the responsibility of the Umatilla Tribal Police Department which shall assign officers as game wardens, as needed and available, to specific Wildlife Code enforcement activities.

**SECTION 3.02. ELIGIBILITY**

All persons eligible to be fully certified Tribal police officers shall be eligible to be game wardens.

**SECTION 3.03. SUPERVISION**

The officers assigned as game wardens shall be supervised by the same supervisors and under the same personnel policies as all other Tribal police officers. However, since the Commission has policy oversight regarding fish and wildlife issues, the UTPD officers assigned to Wildlife Code enforcement shall periodically meet with the Commission to discuss policy considerations involving enforcement of this Code.

**SECTION 3.04. FEDERAL AUTHORIZATION**

All Tribal police officers assigned as game wardens must be able to meet, within one year of appointment, all requirements imposed by contracts with the federal government.

**SECTION 3.05. AUTHORITY TO ENTER PRIVATE LANDS**

A Tribal police officer may, in the course of his duties, enter and remain on, while performing his duties, any lands or waters on the Reservation or any off-reservation lands or waters in which the Tribes have treaty hunting, trapping or fishing rights. Any such action by a warden or officer shall not constitute trespass.

**SECTION 3.06. SEIZURE**

A. Tribal police officer may seize without warrant:

1. Any birds, mammals or fish, including parts, taken, killed, transported or possessed, contrary to this Code or any rules or regulations of the Commission; and
2. Any dog, gun, trap, net, seine, decoy, bait, boat, light, fishing tackle, motor vehicle or other device used in unlawful hunting, fishing or trapping or held with the intent to use in unlawful hunting, fishing or trapping.

B. The Tribal police officer who seizes personal property shall issue to the person, from whom it is seized, a receipt listing the serial number of any firearm seized and describing any other property seized. Each officer shall maintain a complete record of all property and wildlife seized, which describes each item and identifies its disposition. Any property seized shall not be disposed of except pursuant to the order of the Court.

**SECTION 3.07. HEARINGS AND TRIALS**

The Court shall conduct hearings and trials for violations of this Code pursuant to the Tribes' rules of criminal or civil procedure depending on whether the violation imposes a criminal or civil penalty.

**CHAPTER 4. PENALTIES**

**SECTION 4.01. CIVIL OFFENSES**

A. Any person subject to civil jurisdiction of the Tribes who is charged with an offense under this Code, whether as an infraction or a crime, shall be subject to the procedures and remedies provided by this Code and other Tribal Civil laws.

B. Any violation of this Code or of a regulation adopted pursuant to this Code is a civil offense unless specifically limited to a criminal offense only.

C. For a civil offense the Court may:

1. Impose a fine of not less than \$25.00 or more than \$25,000 per violations
2. Exclude the person from the Reservation;
3. Suspend, confiscate or permanently revoke any Tribal hunting or fishing licenses or permits or identity cards issued by the Tribes, including the suspension or permanent revocation of a Tribal Member's aboriginal or treaty right to hunt or fish;
4. Forfeiture as defined by this Code, or
5. Any combination of the above.

**SECTION 4.02. CRIMINAL OFFENSES**

Any person subject to the criminal jurisdiction of the Tribes who is charged with a criminal offense under this Code shall be prosecuted under Tribal criminal law and procedure and, if found guilty, penalized as a criminal offender.

**SECTION 4.03. FORFEITURES**

- A. The Court may subject to forfeiture, by court order, any contraband wildlife, or any personal property used in the commission of a violation and seized by the Tribal police, including, but not limited to, motor vehicles, watercraft, hunting rifles and gear, and fishing gear.
- B. At the time any contraband wildlife or any personal property is seized, the game warden or Tribal police shall issue to the owner a field citation and notice of intent to forfeit which shall contain, at a minimum, the following information:
  - 1. A date, no more than thirty (30) days after the date of seizure, on which the owner may appear in Court to contest the validity of the seizure and the intended forfeiture;
  - 2. A statement that the owner's failure to appear on the date may constitute automatic grounds for forfeiture of the seized wildlife or personal property; and
  - 3. A statement that the owner may be granted a continuance by the Court in order to adequately prepare his case.
- C. If the owner of any seized contraband or personal property is unknown, the Court shall publish a notice of forfeiture in the Tribal newspaper for two (2) issues or, if the Tribal newspaper is unavailable, in any newspaper of general circulation in Umatilla County for four (4) successive issues, describing with specificity the contraband or personal property seized, and stating that the owner has fifteen (15) days from the last date of publication to appear at a hearing before the Court to contest the seizure and forfeiture.
- D. After the hearing, the Court may forfeit the contraband or personal property. However, if no owner appears within fifteen (15) days following the last date of publication of the notice, the contraband or personal property is forfeited automatically,

**SECTION 4.04. REWARDS FOR ARREST AND CONVICTION**

If funds are available and budgeted, the Commission may offer monetary rewards for information leading to the arrest and conviction of any person violating this Code.

**CHAPTER 5. GENERAL FISHING AND HUNTING PROVISIONS**

**SECTION 5.01. FISHING AND HUNTING ALLOWED ONLY DURING OPEN SEASONS**

No person shall fish or hunt on or off the Reservation except during open seasons established by this Code or the Commission. Violation of this section is a crime.

**SECTION 5.02. SECTION "C" MEMBERS**

- A. No court shall construe the provisions of this Code or the actions of the Commission to grant treaty fishing or hunting rights to persons enrolled pursuant to Article IV, section (c) of the Constitution.
- B. Tribal Members enrolled pursuant to Article IV, section (c) of the Constitution may be allowed to exercise hunting privileges on the Reservation only under a permit issued by the Commission. No court shall construe any such hunting permits as the exercise of treaty

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hunting rights. Such permits only create statutory rights granted by the Tribes pursuant to their inherent sovereign authority.

- C. The Commission shall not issue any permits to Tribal Members enrolled under Article IV, section (c) of the Constitution for fishing or trapping purposes.
- D. Hunting permits issued to section (c) members shall include the following conditions:
  - 1. Deer and elk only;
  - 2. Valid during the regular hunting season open for other Members or during the period specifically identified on the permit;
  - 3. Valid only within the boundaries of the Reservation;
  - 4. Specify the number of animals that may be taken; and
  - 5. The permittee shall file a kill report to the Commission within the time required by the permit, if any, of the taking of an animal pursuant to a permit issued under this section. The report shall indicate the species and gender of the animal killed, the date of the kill, and the general location of the kill. A kill report shall also be filed with the Commission in the event that no animal is taken under the permit.
- E. The Commission shall only issue a permit to a section (c) member if he resides on or near the Reservation. The Commission shall consider the following factors when issuing a permit under this section:
  - 1. Whether or not the applicant and his family is in economic need of a hunting permit to provide subsistence for family members; or
  - 2. Whether the applicant for the permit has person(s) enrolled in the Tribes that are a member(s) of his household; or
  - 3. Whether there is a traditional need identified by the applicant; or
  - 4. Whether the applicant for the permit has been previously found in violation of this Code.
- F. The Commission may delegate its authority to issue permits under this section to the Department of Natural Resources Wildlife/Fisheries Programs, or their successor agencies, by regulations consistent with this Code and adopted by the Commission

**SECTION 5.03. TRIBAL IDENTIFICATION CARD**

- A. A Tribal identification card shall be prima facie evidence that the holder is entitled to exercise all fishing and hunting rights reserved for Tribal Members, subject However to all restrictions of this Code and rules and regulations promulgated by the Commission.
- B. Any person, who is a Tribal Member and who fishes or hunts on the Reservation or exercises off-reservation treaty rights, shall have in his possession any required Tribal identification card, permit, license or tag issued by the Tribes.
- C. Failure to have the required Tribal identification card in his possession is an infraction.

**SECTION 5.04. DISPLAY UPON DEMAND**

- A. Upon demand by any Tribal police officer or purchaser of commercial fish, such card, permit, license or tag shall be displayed and refusal or failure to do so shall be prima facie evidence that such person is not authorized by the Tribes to hunt, fish or trap.

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- B. Refusal to display such permit and/or tag and write his name on demand shall be prima facie evidence that such non-member has no permit and/or tag and is not the person named on the permit and/or tag in his possession.
- C. Refusal or failure to display a card, permit, license or tag, upon demand by a Tribal police officer, is an infraction.

**SECTION 5.05. NOT TRANSFERABLE**

Tribal identification cards issued by the Tribes are not transferable. Permits, licenses or tags issued by the Commission are not transferable. Fraudulent transfer is a crime.

**SECTION 5.06. CONSERVATION**

The Commission shall determine the length of all open seasons and issues all fishing and hunting permits based on sound principles of conservation.

**SECTION 5.07. TRAFFICKING IN WILDLIFE**

- A. No Tribal Member or other person subject to Tribal jurisdiction shall:
  - 1. Sell or have in his possession with the intent to sell;
  - 2. Expose or offer for sale;
  - 3. Use as the basis for an exchange of money; or
  - 4. Ship for commercial purposes any wildlife, including parts, raw or processed.
- B. However, this provision does not apply to:
  - 1. Lawful off-reservation commercial fishing activities,
  - 2. The possession or sale of hides of big game or furbearers lawfully taken; or
  - 3. The sale or bartering of subsistence wildlife by a Tribal Member to a member of a federally recognized tribe.
- C. A Tribal Member may exchange wildlife lawfully taken for household goods or domestic supplies.
- D. Violation of this section is a crime.

**SECTION 5.08. WASTING WILDLIFE**

- A. No person shall needlessly waste, after killing or wounding, any wildlife or so mutilate any wildlife that its species, sex or size cannot be determined.
- B. Waste includes the deterioration of the fur pelts, or of those portions of wildlife normally utilized for human consumption, to the point where it is no longer fit for such use.
- C. Waste includes abandoning meat in a locker. If the Tribes voluntarily pay for abandoned meat in lockers, the Tribes may pursue repayment from the abandoning person through the courts. The Commission may voluntarily pay for abandoned meat in lockers only with the approval of the Board.

**SECTION 5.09. TAKING OF WILDLIFE DAMAGING PROPERTY**

- A. Any person who resides within the boundaries of the Reservation and whose real or personal property is being damaged by any animal not classified as fish, big game, small game, upland game, waterfowl or fur bearers, may destroy, trap or arrange for the removal of the animal.
- B. Upon application, the Commission may authorize enforcement personnel to destroy, trap or remove an animal or may grant permission to the applicant for the destruction, trapping or removal of an animal classified as fish, big game, small game, waterfowl, or fur bearer provided the animal is substantially damaging the real or personal property of the applicant. The Commission shall not allow the taking of such wildlife if the damage is minimal.
- C. Whenever possible, before the Commission approves an application for the destruction, trapping or removal of any animal classified as fish, big game, small game, waterfowl, or fur bearer, the Commission shall arrange for enforcement or biological personnel to investigate and report to the Commission regarding the extent of the alleged damage.
- D. The Commission may require the permittee to provide the remains of the destroyed wildlife to the Tribal member who suffered damages or to other Tribal members as deemed appropriate by the Commission.
- E. A violation of this section is an infraction.

**SECTION 5.10. CAPTURE OF WILDLIFE**

- A. No one shall capture and keep any wildlife as a pet.
- B. Violation of this section is an infraction.

**SECTION 5.11. TOXIC SUBSTANCE AND WILDLIFE**

- A. No one, including licensed state and federal trappers, shall make caustic or toxic substances available to wildlife unless the substance and method of application is approved by the Commission for control purposes. Off-reservation, Tribal Members may make such substances available to wildlife if the application is approved by federal and/or state governmental agencies authorized to prescribe environmental control programs.
- B. A violation of this section is an infraction.

**SECTION 5.12. POSTING LANDS**

- A. Due to the Tribes' exclusive on-reservation treaty fishing and hunting rights, no one on the Reservation, including the owner or lessee of real property, shall post property against trespassing, hunting, or fishing. However, any person may post the land around his place of residence for a distance not to exceed 600 yards, unless the Commission adopts a greater distance pursuant to its regulatory authority.
- B. The Commission may close, by regulations adopted pursuant to this Code, residential areas on the reservation to hunting in the interest of public safety.
- C. A violation of this section is an infraction.

**SECTION 5.13. DESTRUCTION OF PROPERTY**

- A. No one hunting or fishing on land belonging to another person or the United States on or off the Reservation shall damage the land, crops or property. All motor vehicles must remain on established roads and tracks.
- B. A violation of this section is an infraction.

**SECTION 5.14. DUMPING GARBAGE/WASTE IN WATERS**

- A. No one shall dump, throw, shoot or cause to be placed in any waters on or off the Reservation any garbage, foreign matter (including, but not limited to, pollutants, toxics and poisons), human or animal waste.
- B. A violation of this section is an infraction.

**SECTION 5.15. USE OF WILDLIFE FOR SCIENTIFIC PURPOSES**

- A. A person may take, possess, inspect, sample, measure, count or collect data on fish and wildlife for scientific, management and/or enhancement purposes pursuant to a scientific permit issued by the Commission.
- B. The Commission may deny a permit without cause, may impose any reasonable conditions on any permits issued, and shall impose specific expiration dates.
- C. Any violation of this section or any permit conditions is an infraction.

**SECTION 5.16. KILLING OF WOUNDED WILDLIFE**

- A. Anyone may kill wildlife that is found suffering from mortal wounds. However, no one shall use any such remains, out of season, for any purpose without a prior obtained permit from the Commission.
- B. A violation of this section is an infraction.

**SECTION 5.17. CLOSED AREAS**

- A. No one shall engage in fishing or hunting at any time, on or off-reservation, in areas closed pursuant to this Code.
- B. The Commission shall set closed areas by regulations adopted pursuant to this Code.
- C. No one shall engage or attempt to engage in hunting or fishing in areas closed by the Commission.
- D. A violation of this section is an infraction

**SECTION 5.18. FISHING GENERALLY**

Violations of this section are infractions unless specifically stated otherwise in the subsections below.

- A. No one shall use any substance in a body of water to attract fish to the place where the substance is deposited, unless used as bait when attached to a hook fished in the ordinary manner.
- B. No one shall use electric current that may attract, retard, stun, kill or obstruct movement of fish in any body of water.
- C. No one shall use any explosive device for the purpose of taking fish in any body of water. A violation of this subsection is a crime.
- D. No one shall use any gas or chemical that may attract, frightens retard, stun, kill or obstruct the movement of fish in any body of water.
- E. No one shall take fish by gill net, dip net, bag net, hoop net, spear, gaff, club, fowling hook or other traditional methods, unless authorized by rule or regulation issued pursuant to this Code.

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- F. No one shall take fish with commercial fishing gear except in those areas where commercial fishing gear is authorized pursuant to this Code. Any such commercial gear shall be marked and identified in a permanent manner with the fisherman's Tribal identification number on the cork line.
- G. No one shall sell or offer for sale, and a commercially licensed fish buyer or wholesale fish dealer shall not have in his possession, fish taken for subsistence or ceremonial purposes.
- H. Any gear that is discovered missing shall be reported 36 hours from the time of such discovery to tribal, federal or state law enforcement personnel along with a description, a location last seen and any other information that will aid in identification and recovery.
- I. No one shall falsely report any fishing gear as missing.
- J. Anyone selling, trading or bartering fish taken pursuant to treaty rights must provide his Tribal enrollment number to buyers requesting it, so that the buyer can record the seller's number with the buyer's purchase record.

**SECTION 5.19. HUNTING GENERALLY**

A violation of this section is an infraction unless specifically stated otherwise in the subsections below.

- A. No one shall hunt, pursue, molest, catch, kill or attempt to hunt, pursue, molest, catch or kill any animal from a motor propelled vehicle. A violation of this subsection is a crime.
- B. No one shall shoot any pistol, rifle, shotgun, or other firearm from a vehicle or along any public road.
- C. No one shall hunt, pursue, take or attempt to hunt, pursue or take animals from one half hour after sunset to one half hour before sunrise.
- D. No one shall hunt big game with any firearm other than a rifle or handgun with a caliber designation of 6 mm. (.243 Cal.) or larger, or a shotgun using slugs or number one buckshot or larger.
- E. No one shall hunt with an artificial light of any kind. It is prima facie evidence of unlawful hunting if found with an artificial light and any rifle, shotgun or other firearm in any place where game animals may reasonably be expected to be found. However, this provision does not apply:
  - 1. To the headlights of a motor vehicle that is being operated on a road in the usual manner, if the operator or occupants of the motor vehicle makes no attempt to kill wildlife; or
  - 2. When the weapon the operator or occupants of the motor vehicle have in their possession or immediate physical presence is disassembled or stored, or in the trunk or storage compartment of a motor vehicle.
- F. No one shall hunt small game, upland game or waterfowl with any firearm other than a shotgun, 10 gauge or smaller, except that game may be taken with a caliber designation of 6 mm. (. 243 caliber) or smaller.
- G. Hunting big game and small game by means of bow and arrow shall be allowed during any season set by the Commission. However, no one shall hunt with a crossbow, utilize explosive devises on arrows, or carry a firearm while bow hunting.

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- H. No one shall hunt, trap, chase, or harass big game with dogs except as authorized by Commission rule or regulation adopted pursuant to this Code.
- I. No one shall exercise any hunting rights, on or off the Reservation, if he is under the age of 12. The Commission shall not issue special hunting permits under this Code to any applicant under 12 years of age.
- J. No one between 12 and 18 years of age shall engage in any hunting rights, on or off Reservation, unless he has in his possession a hunting safety certificate issued by the Tribal Police or by another police department which demonstrates that he understands the safe operation of firearms. The Commission shall not issue any hunting permits under this Code to any applicant between 12 and 18 years of age unless the applicant demonstrates satisfactory completion of a firearm safety course.
- K. No one shall engage in any hunting right, if a court order prohibits him from possessing a firearm. The Commission shall deny any application for a hunting permit pursuant to this Code, if the applicant is prohibited from carrying a firearm. A violation of this subsection is a crime.
- L. No one shall hunt with or discharge firearms while under the influence of any drug, narcotic or liquor. A violation of this subsection is a crime.
- M. No one shall aim any firearm whether loaded or not at or towards any human being or willfully discharge any firearm, in a public place, or in any place where any person might be endangered, even if no injury results. A violation of this subsection is a crime.
- N. No one shall carry, transport or convey or have in his possession or under his control in any vehicle any loaded shotgun, pistol or rifle. Loaded is defined as any weapon having a round of ammunition in the chamber.
- O. No one shall intentionally disrupt or attempt to disrupt lawful hunting activities.
- P. Any attempt to take a wildlife decoy under the control of Tribal police officers shall be an unlawful taking of wildlife and punishable pursuant to this Code.

**CHAPTER 6. ON-RESERVATION FISHING BY TRIBAL MEMBERS**

**SECTION 6.01. SUBSISTENCE FISHING**

The season for subsistence fishing on the Reservation is open all year to Tribal Members, unless the Commission adopts a rule or regulation to the contrary.

**SECTION 6.02. CEREMONIAL FISHING**

- A. No Tribal Member shall engage in ceremonial fishing on the Reservation without a permit issued by the Commission, and only during the ceremonial fishing season set by the Commission.
- B. The Commission may impose any reasonable conditions on Ceremonial fishing either through its permits and/or through regulations.
- C. A Tribal Member shall turn in, to the person requesting the ceremonial fish, all fish taken pursuant to the ceremonial permit.
- D. The user group requesting ceremonial fish shall be responsible for transporting the fish from the fishing site to the place of the ceremony and for preparing the fish as required for the ceremony.

E. A violation of this section is an infraction.

**SECTION 6.03. COMMERCIAL FISHING**

No Tribal Member shall engage or attempt to engage in commercial fishing on the Reservation.

**CHAPTER 7. ON-RESERVATION FISHING BY NON-MEMBER INDIANS**

**SECTION 7.01. RESTRICTIONS**

No non-member Indian shall hunt or fish on the Reservation without obtaining and carrying at all times on his person all permits and tags required by the provisions of this Code, or required by any rules or regulations promulgated by the Commission.

**SECTION 7.02. SUBSISTENCE AND CEREMONIAL FISHING**

A. Any non-member Indian meeting the following qualifications may apply to the Commission for a subsistence fishing permit allowing him to fish on the Reservation for a limited and definite period of time:

1. The non-member Indian's tribe provides reciprocal fishing rights to Tribal members; and
2. The applicant is a member of a federally recognized Indian tribe, is domiciled on or near the boundaries of the Reservation, and is married to a Tribal Member; or
3. The applicant is a member of a federally recognized Indian tribe, is domiciled on or near the boundaries of the Reservation, and has residing in his household one or more dependents who are Tribal Members; or
4. The applicant is a member of a federally recognized Indian Tribe, is domiciled on or near the Reservation, and his mother, father, or legal guardian is a Tribal Member.

B. Any non-member Indian holding a subsistence fishing permit issued pursuant to this Code shall comply with this Code, any regulations, and the conditions on the permit.

**SECTION 7.03. COMMERCIAL FISHING**

No non-member Indian shall engage in or attempt to engage in commercial fishing on the Reservation.

**SECTION 7.04. SPORT/RECREATIONAL FISHING**

No non-member Indian shall engage in or attempt to engage in sport or recreational fishing on the Reservation without a permit issued by the Commission.

**CHAPTER 8. ON-RESERVATION FISHING BY NON-INDIANS**

**SECTION 8.01. GENERALLY**

A. Any violation of any provision of this Code, or of any regulation issued pursuant to this Code, shall automatically withdraw any lawful authority or permission from the Tribes to fish and the non-Indian shall be deemed to be acting without lawful authority or permission of the Tribes.

B. No non-Indian shall fish on the Reservation without obtaining, and carrying at all times on his person, all permits and tags required by the provisions of this Code, or required by any rules or regulations promulgated by the Commission.

**SECTION 8.02. SUBSISTENCE AND CEREMONIAL FISHING**

No non-Indian shall engage in or attempt to engage in subsistence or ceremonial fishing on the reservation.

**SECTION 8.03. COMMERCIAL FISHING**

No non-Indian shall engage in or attempt to engage in commercial fishing on the Reservation.

**SECTION 8.04. SPORT OR RECREATIONAL FISHING**

No non-Indian shall engage in or attempt to engage in sport or recreational fishing on the Reservation without a permit issued by the Commission.

**CHAPTER 9. OFF-RESERVATION FISHING BY TRIBAL MEMBERS**

**SECTION 9.01. SUBSISTENCE FISHING**

The season for subsistence off-reservation fishing for Tribal Members shall be open all year, unless the Commission adopts a rule or regulation to the contrary.

**SECTION 9.02. CEREMONIAL FISHING**

- A. A Tribal Member may engage in ceremonial off-reservation fishing only during the ceremonial fishing season set by the Commission and only while in possession of ceremonial permit issued by the Commission.
- B. No Tribal Member shall fish off-reservation for ceremonial purposes without having in his possession a signed copy or duplicate copy of the written Tribal notification to the appropriate state agencies of the ceremonial fishing.
- C. All Tribal Members fishing pursuant to a ceremonial fishing permit off-reservation shall submit a written catch report on the number of fish taken to the Commission and to the State of Oregon by the user group and the person authorized to fish pursuant to the ceremonial permit.
- D. The Commission shall notify the State of Oregon, in writing, of the issuance of a ceremonial fishing permit for off-reservation fishing at least one week prior to the start of the fishing. However, in the event of a bona fide emergency need for ceremonial fish notice to state authorities by telephone will be allowed, so long as sufficient time is provided for the notification of all state agencies and agents.

**SECTION 9.03. COMMERCIAL FISHING**

- A. No Tribal Member shall take fish for commercial purposes, except during the time, in the areas, with the gear and for the species as provided in this Code or by Commission rules or regulations, and in accordance with federal laws and regulations consistent with the Treaty.
- B. Commercial fishing gear shall be used as follows:
  - 1. No one shall use commercial fishing gear which is not branded in a permanent manner with the fisherman's tribal identification number on the corkline.
  - 2. No one shall use a monofilament net except where specifically authorized.
  - 3. No one shall use a set net or combination thereof longer than 400 feet.

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4. Every net shall be lifted and inspected and all fish removed therefrom at least once daily, except during the winter season during which time nets shall be lifted, inspected and all fish removed therefrom at least once during every 48 hour period.
5. No one shall take or appropriate, without authorization, the fishing gear of another. Any person using the gear of another shall have in his possession at all times during such use written authorization signed by the owner of the gear.
6. No one shall, while exercising off-reservation treaty commercial fishing rights, permit any person other than members of the Columbia River Treaty Tribes to fish for him, assist him in fishing or use any gear or fishing location identified as his gear or location.

**CHAPTER 10. ON-RESERVATION HUNTING BY TRIBAL MEMBERS**

**SECTION 10.01. RESTRICTIONS**

- A. No Tribal Member shall engage in or attempt to engage in hunting on the Reservation except during open seasons.
- B. No Tribal Member shall engage or attempt to engage in hunting on the Reservation in the company of any person not authorized to exercise treaty hunting rights. However, any Tribal Member may engage in hunting with a section (c) member or a non-member on the Reservation if both the Tribal Member and the other person hunt in compliance with the provisions of the Code.

**SECTION 10.02. SUBSISTENCE HUNTING**

Any Tribal member may apply to the Commission for a subsistence hunting permit during closed seasons. Each application for a subsistence hunting permit shall be made in person to the Commission Chair who shall call a meeting for the purpose of acting on the application. Each application shall, at a minimum, include:

- A. The name, age, Tribal identification number of the person applying for the permit;
- B. Special facts and/or reasons justifying the applicant's request for a subsistence hunting permit during a closed season;
- C. The dates on which the hunting is to take place, not to exceed five (5) days;
- D. Whether one deer or one elk is to be taken, but not both;
- E. Any other information the Commission deems relevant.

**SECTION 10.03. CEREMONIAL HUNTING**

Any Tribal Member may apply to the Commission for a ceremonial hunting permit during a closed season. Each application for a ceremonial hunting permit shall be made to the Commission Chair who shall call a meeting for the purpose of acting on the application. Each application shall, at a minimum, include:

- A. The name, age and tribal identification number of the applicant;
- B. The name of the ceremony for which the meat is to be used and an estimate of the number of people expected to attend the ceremony;
- C. The dates on which the hunting is to take place, not to exceed five (5) days,
- D. A preference on which type of game animal is desired;

- E. The names of persons engaging in the ceremonial hunting; and
- F. Any other information the Commission deems relevant.

An emergency ceremonial hunting permit may be granted by any two members of the Commission if a regular quorum of the Commission is unavailable, provided that the two acting members submit to the remaining Commission members a copy of the ceremonial hunting permit application acted upon within ten (10) days from the date of its approval.

#### SECTION 10.04. COMMERCIAL HUNTING

No Tribal member may engage or attempt to engage in commercial hunting on the Reservation.

### **CHAPTER 11. ON-RESERVATION HUNTING BY NON-MEMBER INDIANS**

#### SECTION 11.01. PERMITS REQUIRED

Non-member Indians meeting the following qualifications may apply to the Commission for a special hunting permit allowing him to hunt on the Reservation during any season open to Tribal Members:

- A. The non-member Indian's tribe allows reciprocal hunting rights; and
- B. The applicant is a member of a federally recognized Indian tribe, is domiciled on or near the Reservation, and is married to a Tribal Member; or
- C. The applicant is a member of a federally recognized Indian tribe, is domiciled on or near the Reservation, and has residing in his household one or more dependents who are Tribal Members; or
- D. The applicant is a member of a federally recognized Indian tribe, is domiciled on or near the Reservation, and his mother, father, or legal guardian is a Tribal Member.

#### SECTION 11.02. SUBSISTENCE HUNTING

A non-member Indian may apply to the Commission for a subsistence hunting permit during a closed season. Each application for a subsistence hunting permit shall be made in person to the Commission Chair who shall call a meeting for the purpose of acting on the application.

#### SECTION 11.03. CEREMONIAL HUNTING

No non-member Indian may engage or attempt to engage in ceremonial hunting on the Reservation.

#### SECTION 11.04. COMMERCIAL HUNTING

No non-member Indian shall engage or attempt to engage in commercial hunting on the Reservation.

### **CHAPTER 12. ON-RESERVATION HUNTING BY NON-INDIANS**

#### SECTION 12.01. CEREMONIAL HUNTING

No non-Indian shall engage in or attempt to engage in ceremonial hunting on the reservation.

#### SECTION 12.02. COMMERCIAL HUNTING

No non-Indian shall engage in or attempt to engage in commercial hunting on the reservation.

**SECTION 12.03. SUBSISTENCE, SPORT AND RECREATIONAL HUNTING**

No non-Indian shall engage in or attempt to engage in subsistence, sport or recreational hunting on the reservation without a valid permit from the Commission.

**CHAPTER 13. OFF-RESERVATION HUNTING BY TRIBAL MEMBERS**

**SECTION 13.01. SEASONS**

No Tribal Member shall take wildlife off-reservation pursuant to treaty hunting rights except during open seasons established by the Commission.

**SECTION 13.02. RESTRICTIONS**

No Tribal Member shall take wildlife off-reservation pursuant to treaty hunting rights in the company of any person not authorized to exercise treaty hunting rights, except as follows:

- A. Any Tribal Member may engage in hunting with a section (c) member or a non-member if both the Tribal Member and the other person comply with the state laws as to the number and sex of animals that may be taken.
- B. Any Tribal Member may engage in hunting or trapping with a non-member Indian who is also entitled to exercise off-reservation treaty hunting rights under another treaty. However, both the Tribal Member and the non-member Indian must comply with their respective tribal laws as to the number and sex of animals that may be taken.

**SECTION 13.03. SUBSISTENCE HUNTING**

Tribal Members may engage in off-reservation subsistence hunting pursuant to section 10.02 of this Code.

**SECTION 13.04. CEREMONIAL HUNTING**

Tribal Members may engage in off-reservation ceremonial hunting pursuant to section 10.03 of this Code.

**SECTION 13.05. COMMERCIAL HUNTING**

No Tribal Member may engage, or attempt to engage, in commercial hunting off-reservation pursuant to treaty reserved rights.

**CHAPTER 14. TRAPPING**

**SECTION 14.01. TRIBAL MEMBERS**

- A. Tribal members shall not engage in or attempt to engage in subsistence or ceremonial trapping on the reservation without a permit issued by the Commission. Violation of this section is an infraction.
- B. Tribal members shall not engage in or attempt to engage in commercial or sport trapping on the reservation. Violation of this section is a crime.

**SECTION 14.02. NON-MEMBER INDIANS**

- A. Non-member Indians shall not engage in or attempt to engage in subsistence or ceremonial trapping on the reservation without a permit issued by the Commission. Violation of this section is an infraction.

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION  
As Amended through Resolution No. 04-022 (April 12, 2004)*

- B. Non-member Indians shall not engage in or attempt to engage in commercial or sport trapping on the reservation. Violation of this section is a crime.

**SECTION 14.03. NON-INDIANS**

Non-Indians shall not engage in or attempt to engage in subsistence, ceremonial, commercial or sport trapping on the reservation. Violations of this section shall result in substantial civil penalties.

**CHAPTER 15. GATHERING**

**SECTION 15.01. TRIBAL MEMBERS**

Tribal members may engage in gathering traditional foods and medicines on-Reservation, from non-wildlife sources.

**SECTION 15.02. NON-MEMBER INDIANS**

Non-member Indians shall not engage in subsistence gathering of traditional foods and medicines on-Reservation except:

- A. When accompanied by a family member who is a tribal member ,
- B. When gathering for such a person, or
- C. When acting within their scope of employment as Tribal employees.

**SECTION 15.03. NON-INDIANS**

Except for authorized tribal staff members acting within the scope of their work, non-Indians shall not engage in subsistence gathering of traditional foods and medicines on the Reservation.

**SECTION 15.04. REGULATIONS**

The Commission shall make every effort to consult with the Cultural Resources Committee and the Law and Order Committee prior to promulgating regulations concerning gathering.

## APPENDIX A

### LEGISLATIVE HISTORY

## **FISH AND WILDLIFE CODE**

### **LEGISLATIVE HISTORY**

The first seven statutes enacted by the Confederated Tribes regulated various aspects of the exercise of treaty-reserved hunting and fishing rights by tribal members. In this early period the Board did not name statutes according to the statutes' topic. Instead the statutes were simply named by the numerical order in which they were enacted.

Tribal Ordinance No. One prohibited the sale of game that had been killed by a person while that person was exercising hunting rights reserved under the Tribes' Treaty of 1855, and set up a hearing and penalty process for punishing violations of the ordinance. Ordinance No. One was passed by the Board and signed by Board Chairman Louis McFarland and Board Secretary Elias J. Quaempts on October 2, 1953. It is not clear whether the Board also passed a resolution recording the enactment of this ordinance.<sup>1</sup>

Tribal Ordinance No. Two established a procedure for the issuance of licenses to hunt, trap and fish on the Umatilla Indian Reservation to Indians who are not enrolled in the Confederated Tribes of the Umatilla Indian Reservation. Ordinance No. Two was passed by the Board and signed by Board Chairman Elias J. Quaempts and Board Secretary David S. Hall on October 27, 1959. Its enactment was also recorded in Board Resolution No. 60-4 (October 27, 1959).

Tribal Ordinance No. Three established hunting seasons for members of the Confederated Tribes and persons who held tribal hunting licenses. It also prohibited persons exercising rights under the Tribes treaty of 1855 or tribal license from hunting with persons who did not have such rights, except when all members of the party complied with state hunting regulations. Ordinance No. Three established a process whereby a Tribal member who is the wife of a non-member could obtain a special seven-day permit for the hunting of one deer or one elk. The ordinance set up a process for hearing complaints about violations of the ordinance and for setting penalties for violations. Ordinance Three was passed by the Board of Trustees and signed by Board Chairman Elias J. Quaempts and Board Secretary David S. Hall on October 11, 1960. Its enactment was also recorded in Board Resolution 61-11 (October 11, 1960).

Tribal Ordinance No. Four established a process for the issuance of Tribal identification cards for the purpose of identifying persons who were entitled to exercise treaty rights under the Tribes' Treaty of 1855. Ordinance No. Four was passed by the Board of Trustees and signed by Board Chairman Elias J. Quaempts and Secretary David S. Hall on October 11, 1960. Its enactment was also recorded in Board Resolution 61-12 (October 11, 1960).

Tribal Ordinance No. Five prohibited the exercise of treaty-reserved rights to hunt and trap in lands that were outside the original 1855 treaty boundary of the Umatilla Indian Reservation and were not unclaimed lands. Hunting in lands located within the 1855 treaty boundary but west of the line separating Ranges 32 and 33 was also prohibited. Ordinance No. Five was passed by the Board of Trustees and signed by Board Chairman Elias J. Quaempts and Secretary David S. Hall on October 11, 1960. Its enactment was also recorded in Board Resolution 61-13 (October 11, 1960).

Tribal Ordinance No. Six prohibited all members of the Confederated Tribes of the Umatilla Indian Reservation from taking salmon or steelhead in the fish ladder planned for construction at Three Mile

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<sup>1</sup> Prior to the enactment of the Tribes' Sign Code, in Resolution 76-49 (May 17, 1976), the Board would indicate the enactment of a statute by having the Board Chairman and Secretary sign a certification at the end of the statute. During this early period, the Board would also typically (although not necessarily always) pass a resolution recording the enactment of the statute. From 1976 onward, the Board has always passed a resolution whenever enacting a statute, regardless of whether the statute was also signed. The only statutes to be signed during this latter period are the original Land Development Code (August 24, 1983) and the original Gaming Ordinance (signed only by the Chairman, February 22, 1994).

*STATUTES of the CONFEDERATED TRIBES of the UMATILLA INDIAN RESERVATION  
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Dam on the Umatilla River. Ordinance No. Six was passed by the Board of Trustees and signed by Board Chairman Gilbert E. Conner and Secretary Thelma M. Reick on July 30, 1963. It appears that the Board did not pass a resolution recording the enactment of this ordinance (Resolution 61-03 was passed on July 23, 1963, while Resolution 61-04 was passed on August 26, 1963. Neither of these resolutions enacted Ordinance No. Six.).

Tribal Ordinance No. Seven closed certain locations to all fishing and closed other locations to commercial fishing, and established seasons and harvest methods for additional locations. Ordinance Seven was passed by the Board of Trustees and signed by Board Chairman David S. Hall and Secretary Thelma M. Reick on May 24, 1966. Enactment of this ordinance may have been recorded in Board Resolution 66-18 (which is missing) and which would have been passed between March 8, 1966 (the date of Resolution 66-17) and June 1, 1966 (the date of Resolution 66-19).

The Board of Trustees amended Ordinance No. Seven to clarify the intent of one section on August 9, 1966. The amendment was signed by Board Chairman David S. Hall and Secretary Thelma M. Reick. The Board also recorded its enactment of this amendment in Resolution 67-3 (August 9, 1966).

Tribal Ordinance No. Nine repealed and replaced Tribal Ordinance No. Seven, as amended. Tribal Ordinance No. Nine was apparently enacted sometime in 1969 and signed by Board Chairman Roy McIntyre and Secretary Viola P. Wocatsie. Unfortunately the only currently available copy of this ordinance is neither signed nor dated. Its enactment may have been recorded in Resolution 70-06, which is the only resolution enacted in 1969 that is currently missing. Resolution 70-06 would have been passed in late August or early September 1969. This would be consistent with the Board's usual pattern at this time of enacting fish and wildlife ordinances in the early fall of the year.

On September 22, 1977, the Board of Trustees enacted by motion a Fish and Game Code, which took effect on January 1, 1978. The Fish and Game Code re-codified and elaborated upon the provisions of Tribal Ordinances No. One through No. Seven and Ordinance No. Nine, and repealed those statutes (See Chapter I, Part I, section 10 of the Fish and Game Code). In addition, this code established the Umatilla Tribal Court of Game Offenses and its rules of procedure. It also defined civil and criminal law and penalties concerning fish and game matters. Resolution 79-08 (February 21, 1979) reaffirmed and provided a formal record of the September 22, 1977 motion. The Board amended the Fish and Game Code once, on September 28, 1979 (This resolution has been lost.).

The Board enacted a revised Fish and Game Code, renamed the "Wildlife Code," in Resolution 81-21 (March 4, 1981). The Wildlife Code was amended by Resolution 91-56 (November 6, 1991).

The Board enacted a revised Wildlife Code in Resolution No. 99-32 (April 7, 1999). The revised Wildlife Code was amended by Resolution No. 99-63 (July 28, 1999), which changed the title to the "Fish and Wildlife Code" and corrected some errors in internal citations. The Board of Trustees further amended the Fish and Wildlife Code in Resolution No. 04-022 (April 12, 2004). This amendment elaborated on existing provisions regarding gathering, changed the name of the Fish and Wildlife Committee to "Fish and Wildlife Commission" and approved the reformat of the Code, making its citation form consistent with that of other tribal statutes.