

RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION


WHEREAS, the Tribal Attorney and Mr. Phillip Stago, Jr., Manager of the White Mountain Recreation Enterprise, have presented to the Tribal Council for its consideration, a proposed revision of the Tribal Game and Fish Code in a form of a Comprehensive Conservation Code, and

WHEREAS, the Tribal Council has reviewed the Comprehensive Fish and Game Code proposed and has been advised by Phillip Stago, Jr., Manager of the White Mountain Recreation Enterprise that the code meets with his Board of Director's approval who recommend that the code be enacted by the Tribal Council, and

WHEREAS, any proposed ordinance must be presented for public comment for a period of ten days.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs that the proposed Ordinance No. 131, the Comprehensive Game and Fish Code be posted for a period of ten days as required by the White Mountain Apache Tribal Constitution and By-Laws.

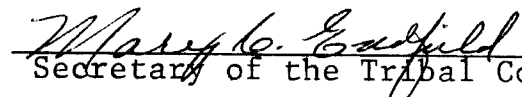
The foregoing resolution was on March 15, 1983 duly adopted by a vote of 10 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (f & i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
Chairman of the Tribal Council

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Secretary of the Tribal Council

TRIBAL COUNCIL DRAFT # 5  
SUGGESTED COMPREHENSIVE REVISION OF THE  
WHITE MOUNTAIN APACHE  
GAME & FISH CODE

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WHITE MOUNTAIN APACHE  
CONSERVATION CODE

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WHITE MOUNTAIN APACHE  
CONSERVATION CODE

CHAPTER 1.

Section 1.1 STATEMENT OF TRIBAL POLICY AND LEGISLATIVE INTENT

Pursuant to the power vested in it by Article V, Section 1 (f) of the Constitution of the White Mountain Apache Tribe, the Tribal Council of the White Mountain Apache Tribe, recognizing the spiritual, cultural, and economic value of the wildlife and recreation resources of the White Mountain Apache Reservation, and recognizing that these resources are an irreplaceable Tribal asset, and recognizing that unregulated use of the wildlife and recreation resources of the Tribe would threaten the political integrity, economic security, and health and welfare of the White Mountain Apache Tribe, hereby enacts this Conservation Code ensure proper management of these vital resources.

Recognizing that the White Mountain Apache people alone have absolute, inherent, retained sovereign right to use and enjoy the White Mountain Apache Reservation, and to govern its use by its members; and the Tribal Council, in regulating the wildlife and recreation resources of the White Mountain Apache Reservation, intends that tribal members shall be afforded the maximum freedom to use and enjoy these resources consistent with the improvement of these resources for future generations.

Of secondary importance is the policy of the Tribal Council to protect the wildlife and recreation resources of the White Mountain Apache Reservation for the economic benefit of the Tribe as a whole, and for the benefit of the Tribe's education and good will.

Recognizing the White Mountain Apache tradition of using restitution as a remedy for injustices, the Tribal Council hereby declares that this Code 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 Code so provides.

## Section 1.2 DEFINITIONS

A. In this Code, unless the context requires another meaning:

1. "ANGLING" means the taking of fish by one line with no more than two hooks, or by one line and one artificial lure which may have attached more than one hook, or by one line with no more than two artificial flies or lures.
2. "AQUATIC WILDLIFE" means all fish, bullfrogs, waterdogs, soft shelled turtles, crayfish, fresh water clams and mussels.
3. "AUTHORIZED OFFICER" means any game ranger of the Recreation Enterprise, any peace officer of the White Mountain Apache Tribe, and any other person authorized by this Code to enforce this Code.
4. "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 during a specified period of time.
5. "CAMPING PERMIT" means a permit required by the Tribal Council for the privilege of camping on the Fort Apache Indian Reservation.
6. "CROSS-COUNTRY VEHICLE PERMIT" means a permit required by the Tribal Council for the use of cross-country vehicles on the Reservation.
7. "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, snow mobiles, all-terrain vehicles, four wheel drive vehicles and dirt bikes.
8. "CLOSED SEASON" means the time during which wildlife may not be lawfully taken.
9. "DEVICE" means any trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other device used for taking wildlife.
10. "ENTERPRISE DIRECTOR" or "GENERAL MANAGER" means the Chief Administrative Officer of the Enterprise, employed by the Tribe.



11. "FALCONRY" means the taking of wildlife with birds of prey.
12. "FIELD TRIAL" means an event where live upland or live migratory game birds are released for field competition or for training hunting dogs.
13. "FISHING" means taking or attempting to take aquatic wildlife.
14. "FISHING PERMIT" means a permit required by the Tribal Council for the taking of aquatic wildlife on the reservation.
15. "GUIDE" means a person who, for pay, aids or assists any person in taking wildlife.
16. "HUNTING PERMIT" means a permit required by the Tribal Council for the taking of game birds or game mammals on the Reservation.
17. "INDIAN" means a member of any Indian Tribe.
18. "MEMBER" means a member of the White Mountain Apache Tribe, as defined by Tribal law.
19. "NON-MEMBER" means any individual who is not a member of the White Mountain Apache Tribe.
20. "OPEN SEASON" means the time during which a particular species of wildlife may be lawfully taken.
21. "POLLUTION OF WATER" means the discharging or dumping into any stream or body of water, or depositing within such distance that it may be carried into such water, of any poisonous, deleterious, or polluting substance or waste that is or may be injurious to aquatic or non-aquatic wildlife, domestic animals or to human beings.
22. "POSSESSION LIMIT" means the maximum limit, in number or amount, of a particular species of wildlife which may be lawfully possessed at one time, by any one person.
23. "PROHIBITED WILDLIFE" means any live wildlife that may not be imported, exported, possessed, propagated, purchased, bartered, sold or offered for sale on the Reservation without authorization from the Tribal Council.
24. "A PUBLIC NUISANCE" is any device designed to silence, muffle, or minimize the report of any firearm, whether separated from or attached to such firearm; any net, trap, crossbow, explosive, poisonous or stupefying substance, or device which is set, used or intended for use in taking wildlife in violation of this Code.
25. "PERMIT YEAR" means the twelve-month period between January 1 and December 31, inclusive.

26. "RESERVATION" means the White Mountain Apache Reservation, also known as the Fort Apache Indian Reservation.
27. "ROAD" means any maintained road that has been used by the public.
28. "SCIENTIFIC COLLECTION PERMIT" means a special permit issued by the Recreation Enterprise for the taking of wildlife specimens for scientific purposes.
29. "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.
30. "TRAPPING" means the taking of wildlife in any manner except with gun or implement in hand.
31. "TRIBAL COUNCIL" means the duly elected governing body of the White Mountain Apache Tribe.
32. "TRIBAL COURT" means the courts of the White Mountain Apache Tribe.
33. "TRIBE" means the White Mountain Apache Tribe on the Fort Apache Indian Reservation.
34. "USE" in reference to a watercraft means any watercraft underway, standing, moored, or anchored on the waterways of the Reservation. In reference to crosscountry vehicles it means any such vehicle in operation or parked on the reservation.
35. "WATERCRAFT" means any boat or other floating device of rigid or inflatable construction which is designed to carry people or cargo on the water, and which is propelled by machinery, oars, paddles, or wind action on a sail; except makeshift contrivances constructed of inner tubes or other floatable material and not propelled by machinery, personal flotation devices worn or held in hand, and other objects used as floating or swimming aids.
36. "WATERCRAFT PERMIT" means a permit required by the Tribal Council for the use of watercraft on the Reservation.
37. "WILDLIFE AREA" means an area established by the Tribal Council for special wildlife protection, research, or management practices.

B. The following definitions of wildlife shall apply:

1. "BIG GAME" are wild turkey, deer, wapiti (elk), antelope, peccary (javelina), bear, mountain lion, and bighorn sheep.
2. "FUR-BEARING ANIMALS" are muskrats, racoons, otters, mink, beaver, badgers, ringtail cats, weasels, and bobcats.

3. "SMALL GAME" are rabbits, tree squirrels, upland game birds, and migratory game birds.
4. "GAME FISH" are trout of all species, bass of all species, pike of all species, catfish of all species, and sunfish of all species.
5. "MIGRATORY GAME BIRDS" are duck, geese, swans, sandhill cranes, all gallinules, all coots, common snipe, bandtail pigeons, and doves.
6. "NONGAME ANIMALS" are all wild animals except big game, small game, furbearing animals, predatory animals, and aquatic wildlife.
7. "NONGAME BIRDS" are all birds except upland game birds and migratory game birds.
8. "NONGAME FISH" are all species of fish except game fish.
9. "PREDATORY ANIMALS" are foxes, skunks, coyotes, and bobcats.
10. "TROUT" means all species of the family salmonidae, including grayling.
11. "UPLAND GAME BIRDS" are quails, partridge, grouse, and pheasants.
12. LEGAL ANTELOPE:
  - a. "BUCK ANTELOPE" means a male antelope with horns longer than his ear.
  - b. "ANY ANTELOPE" means an antelope, any age, either sex.
13. LEGAL BEAR:
  - a. "ANY BEAR" means a bear, any age, either sex.
14. LEGAL DEER:
  - a. "ANY ANTLERED DEER" means an antlered deer of any species or of a designated species, including spikes.
  - b. "ANY DEER" means a deer, any age, either sex, or any deer of the designated species.
15. LEGAL ELK:
  - a. "BULL ELK" means an antlered elk including spikes.
  - b. "ANY ELK" means an elk, any age, either sex.
16. LEGAL JAVELINA:

- a. "ANY JAVELINA" means a javelina, any age, either sex.
- 17. LEGAL LION:
  - a. "ANY LION" means a lion, any age, either sex.
- 18. LEGAL TURKEY:
  - a. "ANY TURKEY" means a turkey, any age, either sex.
  - b. "BEARDED TURKEY" means a turkey with a beard.
- 19. BIG HORN SHEEP are the species Ovis canadensis.

## CHAPTER 2

### AUTHORITY OF THE BOARD OF DIRECTORS AND GENERAL MANAGER OF THE RECREATION ENTERPRISE.

#### Section 2.1 RECREATION ENTERPRISE BOARD OF DIRECTORS; MEMBERS; MEETINGS

- A. The laws of the Tribe relating to conservation and management of wildlife and recreation resources shall be administered by the Enterprise Board of Directors, who shall be appointed by the Tribal Council pursuant to the Plan of Operation of the Recreation Enterprise. Members shall be well-informed on the subject of wildlife and the requirements for its conservation.
- B. The Tribal Council may remove a Board member for inefficiency, neglect of duty or misconduct in office.
- C. Each member of the Board, while attending general or special meetings of the Board and performing official duties for the Board shall receive a per diem of dollars, plus necessary travel and other expenses as provided by law. A Board member who is otherwise employed as a public officer shall not receive such payment if it is prohibited by law. Compensation and expenses shall be paid from the Enterprise Budget funds.
- D. The Board shall have its principal office at the Office of the Enterprise but meetings may be held at any time and at any place within the Reservation. Meetings may be held at the call of the Chairman of the Board or a majority of the Board.

#### Section 2.2 GENERAL POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors shall:

- A. Make such rules and regulations and establish such services as it deems necessary to carry out the provisions and purposes of this code, subject to the approval of the Tribal Council.

- B. Recommend to the Tribal Council broad policies and long range programs for the management, preservation, and harvest of wildlife.
- C. Establish hunting and fishing regulations, and prescribe the manner and methods which may be used in taking wildlife, subject to the approval of the Tribal Council.
- D. Be responsible for the enforcement of laws for the protection of wildlife and recreation resources.
- E. Prescribe grades, qualifications and salary schedules for Enterprise employees.
- F. Provide for the assembly and distribution of information to the public relating to wildlife and the activities of the Game Rangers.
- G. Prescribe rules and regulations for the expenditure of all funds accruing to the Enterprise from appropriations, licenses, gifts and other sources which are specifically intended to be used for the preservation or propagation of wildlife.
- H. Exercise such powers and duties as are necessary to fully carry out the provisions of this Code, including those which relate to adopting and carrying out the policies of the Enterprise and controlling its financial affairs.
- I. Prescribe procedures for the use of Enterprise personnel, facilities, equipment, supplies, and other resources, in assisting search or rescue operations.

### Section 2.3 ENTERPRISE REGULATION BULLETIN

The Board of Directors shall prepare and, as often as is necessary to keep it current, shall revise a bulletin which provides the public with the latest information on seasons, closed areas, and all other special regulations. The Board shall make the bulletin available through all license dealers, at the Enterprise office, and at such other places as it may designate.

### Section 2.4 GENERAL MANAGER: APPOINTMENT; REMOVAL

The Tribal Council shall employ by contract a General Manager, who shall be the chief administrative officer of the Enterprise. The General Manager shall be selected on the basis of administrative ability and general knowledge of wildlife and recreation resource management and conservation. The Tribal Council may remove the General Manager after a hearing for inefficiency, neglect of duty or other cause relating to the administration of his duties.

### Section 2.5 DUTIES AND POWERS OF THE GENERAL MANAGER

- A. In addition to any other duties and powers delegated to him by this Code, the General Manager shall supervise and control all activities, functions, and employees of the Enterprise and shall enforce all provisions of this Code, including all rules and regulations promulgated under the authority of this Code.

- B. The General Manager shall hire and fire game rangers and other Enterprise employees in order to carry out the purposes of this Code, in a manner consistent with the budget allocated for that purpose by the Tribal Council. Game Rangers shall be stationed in different sections of the Reservation as dictated by the need for their services.
- C. The General Manager and other Enterprise personnel shall be reimbursed for their actual and necessary travelling expenses as provided by law.
- D. Special licenses for field trials, shooting preserves, and for collecting or holding wildlife in captivity:
  - (1) In order to safeguard the interests of the Tribe in its wildlife, the General Manager may adopt rules and regulations and issue licenses for shooting preserves, private wildlife farms, and zoos, and for field trials and the personal use of wildlife.
  - (2) The General Manager, at his discretion and under such regulations as he deems necessary, may issue a permit to take wildlife for scientific purposes to any person who is a duly accredited representative of a public educational or scientific institution, or governmental department of the United States engaged in the scientific study of wildlife.
  - (3) A person holding a permit issued pursuant to this Section may, upon advance written approval by the General Manager, buy, sell, or transport wildlife legally possessed. Each person receiving a permit under this Section shall within fifteen days after exercising the privilege granted by the permit file with the Manager a report of all activities engaged in under the permit. The manager may revoke such licenses or permits for noncompliance with any applicable rules or regulations.
  - (4) The General Manager may, upon the written request of the Enterprise biologist, authorize by Special Permit the taking of a specific number of animals of a particular species for the purpose of obtaining scientific information on that species to aid the Enterprise in the management of Reservation wildlife. The General Manager may impose such limitations and restrictions on such a Special Permit as he deems necessary.

Section 2.6 JOINT DUTIES AND POWERS OF THE BOARD OF DIRECTORS AND THE GENERAL MANAGER

The Board of Directors and General Manager may:

- A. Conduct investigations, inquiries or hearings in the performance of their powers and duties.

- B. Establish game management units or refuges for the preservation and management of wildlife, with the approval of the Tribal Council.
- C. Construct and operate game farms, fish hatcheries, fishing lakes, or other facilities for or relating to the preservation or propagation of wildlife.
- D. Expend budgeted funds to provide training in the safe handling of firearms and safe hunting practices.
- E. Remove or permit to be removed from public waters fish which hinder or prevent propagation of game or food fish, and designate the manner of disposing of such fish.
- F. Purchase, sell or barter wildlife for the purpose of stocking tribal lands and waters; cause to be taken at any time, and in any manner, wildlife for research, propagation and restocking purposes, or for use at a game farm or fish hatchery; and declare wildlife saleable when in the interest of conservation, or other public interest.
- G. Enter into agreements with the federal government, states, political subdivisions of states, or private organizations, for the construction and operation of facilities, and for management studies, measures, or procedures relating to the preservation and propagation of wildlife, and expend funds for carrying out such agreements, all subject to the approval of the Tribal Council.
- H. The Board of Directors and General Manager shall have the authority, subject to approval of the Tribal Council, to open, close, or alter seasons and to establish bag and possession limits for wildlife, provided that an order to open a season shall be issued not less than ten days prior to such opening date. The order may apply to the entire reservation or to any portion of the Reservation. Closed seasons shall be in effect unless opened by the Board of Directors or Manager and approved by the Tribal Council. The Board of Directors and General Manager may also establish refuges and safe sanctuaries in which game, fur-bearing animals and birds may breed and replenish adjacent areas, subject to the approval of the Tribal Council.
- I. The General Manager and Board of Directors shall prescribe seasons, bag limits, possession limits and other regulations pertaining to the taking of migratory birds with the approval of the Tribal Council and subject to any applicable Federal Law.
- J. The Board of Directors and the General Manager are authorized to bring suit in the name of the Tribe against any person, corporation, or government agency to restrain or enjoin the person, corporation, or government from pollution of water as defined by this code.

## CHAPTER 3

### GENERAL ENFORCEMENT PROVISIONS

#### Section 3.1 JURISDICTION

Except as otherwise provided by this Code, the White Mountain Apache Tribe, through its Tribal Council, Tribal Court, and such other Tribal entities as are designated by Tribal law, shall have absolute, original, and exclusive jurisdiction to regulate and adjudicate all matters pertaining to wildlife found on the Reservation, whether resident or migratory, native or introduced, and all matters pertaining to the recreation resources of the Reservation.

#### Section 3.2 WILDLIFE AS PROPERTY OF THE WHITE MOUNTAIN APACHE TRIBE

All wildlife found on the Reservation, whether resident or migratory, native or introduced, is the property of the Tribe and may be taken only at such times, in such places, and in such a manner as provided by Tribal law.

#### Section 3.3 NOTICE

- A. Signs shall be posted conspicuously along the boundaries of the Reservation and at all roadway points of entry putting the public on notice that:
- (1) Permission to enter is conditioned on consent to White Mountain Apache Tribal jurisdiction.
  - (2) Permits are required for hunting, fishing, camping, and picnicing .
  - (3) Violators of Tribal regulations are trespassing and are subject to Tribal and Federal sanctions.
  - (4) Vistors must inquire locally for permits and information.
- B. Roadway signs shall be of sufficient size and placement to enable motorists travelling at the speed limit to read them in their entirety.

#### Section 3.4 CIVIL COMPLAINTS

Except as otherwise provided in this code, all matters arising under this Code shall be adjudicated in the White Mountain Apache Tribal Court following the filing of a civil complaint naming the White Mountain Apache Tribe as plaintiff, by the authorized officer alleging the violation, or by legal counsel for the Tribe.

#### Section 3.5 PROCEDURE

Except as otherwise provided in this code, The Civil Procedure Code of the White Mountain Apache Tribe shall govern all questions of procedure arising as a result of the enforcement of this code.



### Section 3.6 ENFORCEMENT; AUTHORIZED OFFICERS

All Tribal Peace Officers and all Game Rangers of the Recreation Enterprise shall have the authority and the duty to enforce the provisions of the Conservation Code, and shall be referred to in this Code as "authorized officers".

### Section 3.7 WARRANTS, SUBPOENAS, AND SERVICE OF PROCESS

Any authorized officer may, in addition to exercising any other powers granted by this Code:

- (1) Execute warrants issued for the arrest of violators of this code;
- (2) Execute search warrants issued by the Tribal Court in matters arising under this Code.
- (3) Serve subpoenas or other legal documents issued in matters arising under this Code.

### Section 3.8 REPRESENTATION OF THE TRIBE IN ACTIONS ARISING UNDER THIS CODE

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 Code to which the Tribe is a party, whether such actions are civil or criminal.

### Section 3.9 CONTEMPT

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

### Section 3.10 TRESPASSING

Violation of this Code by non-members triggers spontaneous revocation of permission to enter the reservation and renders the violator a trespasser. It shall be unlawful for any non-member to trespass on the White Mountain Apache Reservation.

### Section 3.11 FEDERAL PROSECUTION

- A. Nothing in this Code shall be deemed to preclude the federal prosecution under 18 U.S.C. 1165 of non-members who trespass on the reservation. Any authorized officer may follow the procedure provided by Tribal Law to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided for by this Code.
- B. This Code has been enacted to protect the resources of the White Mountain Apache Tribe, and the taking or using of tribal property or services contrary to the terms of this Code constitutes theft of

tribal assets. Nothing in this Code shall be deemed to preclude federal prosecution of violators under 18 U.S.C. 1163 for theft of tribal assets. Any authorized officer may follow the procedure provided by Tribal law to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided for by this Code.

- C. Nothing in this Code shall be deemed to preclude the federal prosecution of violators of this Code under the Lacey Act Amendments of 1981, Public Law 97-79. Any authorized officer may follow the procedure provided by Tribal law to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided for by this Code.

### Section 3.12 EXPULSION

Nothing in this code shall be deemed to preclude the use of the remedy of expulsion of non-members for violation of this Code 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 by this code.

### Section 3.13 LIQUIDATED DAMAGES PROVISIONS

- A. The Board of Directors of the White Mountain Apache Recreation Enterprise 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 regulation of this Code. In calculating these Liquidated Damage Amounts, the Board of Directors may consider, in addition to any other factors they reasonably deem relevant:
- (1) The cost to the Tribe of producing and/or protecting the resource.
  - (2) The cost of replacing or restoring the resource.
  - (3) The costs of enforcement including the general overall costs and costs particularized to individual violations where appropriate.
  - (4) The loss to the Tribe of license revenue.
  - (5) Damages for trespass.
- B. The Board of Directors shall prepare a report explaining the methods they have used to prepare the schedule of Liquidated Damage Amounts and the facts they have considered in its preparation. Such report shall be made available to the Tribal Court at its request.

- C. The Board of Directors shall publish the schedule of Liquidated Damage Amounts, and cause it to be made available to the public at all license outlets.

Section 3.14 LIQUIDATED DAMAGES PRESUMPTION

- A. Since in most instances the exact amount of damages caused to the Tribe by a particular violation of this code will be difficult or impossible to determine, it shall be presumed by the Court adjudicating a complaint for violation of this Code that the amount fixed by the schedule of Liquidated Damage Amounts represents the damages owed to the Tribe as restitution if the defendant is found to be liable. This presumption may be rebutted by evidence which shows to a substantial certainty that the amount indicated by the schedule of Liquidated Damage Amounts is so excessive in a particular case as to be punitive.
- B. All persons shall be deemed to have consented to the liquidated damages provisions of this Code by their entry onto the reservation, and where applicable, by their signature on a Tribal permit or permits.

Section 3.15 PUNITIVE DAMAGES

- A. Nothing in this Code shall be deemed to preclude the Tribe, through its counsel, from praying for and being awarded punitive damages in any action filed for a violation of the Conservation Code wherein it is alleged that the violator has committed the acts constituting the violation wantonly, wilfully, or maliciously.
- B. 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.

Section 3.16 INDIANS; CRIMINAL SANCTIONS

- A. In any case in which an Indian has committed a violation of this Code wilfully, wantonly, or maliciously, or in which the acts which constitute the violation or the circumstances which surround the violation are especially harmful or offensive to the people or the customs of the White Mountain Apache Tribe, the violation may be charged as a misdemeanor. Charges filed pursuant to this section shall be in addition to the civil sanctions provided for by this Code.
- B. Any Indian who, pursuant to the provisions of subsection A of this section, is convicted of a misdemeanor for violation of this Code, or for violation of or failure to comply with a lawful order, rule, or regulation of the Board of Directors, shall be punishable by a fine of not more than \$500.00, by imprisonment in jail for not more than 6 months, or by both such fine and imprisonment, unless a different penalty or punishment is specifically provided by this Code for that violation.
- C. Any Indian who, pursuant to the provisions of subsection A of this section, is convicted of a misdemeanor for:

- 1) Taking, possessing, transporting, buying, selling, or offering for sale any big game species or any part thereof in violation of this Code, or in violation of a lawful rule or regulation of the Board, or
- 2) Detaching or removing from the carcass of a big game animal a portion thereof for the purpose of concealing evidence of illegality, or
- 3) Using an explosive compound, or a corrosive, narcotic, poison or other deleterious substance for the purpose of taking, stunning, or killing fish or birds

shall be punishable by a fine of not less than \$50.00, or by imprisonment in the Tribal jail for not less than one (1) day, or by both such fine and imprisonment, except that failure to attach the tag to a big game animal as prescribed by the orders of the Board of Directors shall be punished as prescribed by subsection B.

- D. Any Indian who is a public officer, and who wilfully fails to enforce this Code, or a lawful rule, regulation, or order of the Board of Directors is guilty of a misdemeanor.

## CHAPTER 4

### SPECIAL ENFORCEMENT PROCEDURES

#### Section 4.1 PURPOSE

Due to the vast area and remote nature of the White Mountain Apache Reservation, and the ease with which non-members can flee the jurisdiction of the Tribe, in order to guarantee the protection of the interests of the Tribe, any authorized officer may implement the procedures of this chapter.

#### Section 4.2 SEARCHES AND SEIZURES

- A. Any authorized officer may, without a search warrant, search any aircraft, watercraft, vehicle, box, game bag, locker, tool box, ice chest, camper, camper shell, trailer, backpack, bedroll, sleeping bag, or other container or package, if the officer has probable cause to believe that wildlife or parts thereof taken in violation of this Code, or the instrumentalities of such illegal taking, are contained therein.
- B. This section shall not be construed to permit the warrantless search of any non-mobile dwelling house or any outbuilding within the enclosed land surrounding it.
- C. Any authorized officer may inspect all wildlife taken, possessed, or transported on the White Mountain Apache Reservation, and may seize as evidence all wildlife which such officer has probable

cause to believe has been taken, possessed, or transported in violation of this Code, and any object which the officer has probable cause to believe has been used as the instrumentality of such illegal taking, possession, or transportation.

#### Section 4.3 DETERMINATION OF MEMBERSHIP

Any authorized officer who has reasonable grounds to believe that a person has violated a provision of this Code, either in or out of the officer's presence, shall identify himself or herself to such person and promptly determine whether the person is a member or non-member, and if a non-member, whether the person is Indian or non-Indian. In making such determination, the officer may demand identification and ask such questions as the officer reasonably believes are necessary to making the determination.

#### Section 4.4 FAILURE TO IDENTIFY

- A. It shall be unlawful for any person reasonably suspected of violating this Code who is able to offer proof of his identity to wilfully refuse to do so to an authorized officer who, after identifying himself as such demands such identification.
- B. Any person who an authorized officer reasonably believes to have violated this Code and who refuses to or cannot identify himself, may, if the officer has reasonable grounds to believe he is a tribal member be arrested and transported to the tribal jail pursuant to Tribal law governing the arrest of persons for citable offenses or may be subject to the Field Bond Procedures of this Code. The complaining officer shall issue and file a Notice to Appear according to the procedures of this Code, substituting for the suspected violator's name a fictitious name such as John Doe.
- C. Any person who an authorized officer reasonably believes to have violated this Code and who refuses to or cannot identify himself, may, if the officer has reasonable grounds to believe that the person is an Indian, but not a Tribal member, be arrested and transported to the tribal jail pursuant to Tribal law governing the arrest of persons for citable offenses, or may be subject to the Field Bond Procedures of this Code, or may be arrested and transported according to the procedures provided by Tribal law for the initiation of federal prosecution and/or expulsion. The complaining officer shall issue and file a Notice to Appear according to the procedures of this Code, substituting for the suspected violator's name a fictitious name such as John Doe.
- D. Any person who an authorized officer reasonably believes to have violated this Code and who refuses to or cannot identify himself may, if the officer does not have reasonable grounds to believe that such person is an Indian, be arrested and transported according to the procedures provided by Tribal law for the initiation of federal prosecution or expulsion and/or may be subject to the Field Bond Procedure provided by the Code. The complaining officer shall initiate such federal prosecution and/or expulsion and/or issue and file a Notice to Appear according to the procedures of this Code, substituting for the suspected violator's name a fictitious name such as John Doe.

- E. Upon determination of the true name of any defendant designated by a fictitious name in a complaint, counsel for the Tribe shall amend the complaint to reflect defendant's true name.

Section 4.5 ENFORCEMENT PROCEDURES: INDIANS

- A. Tribal members: If after identification the suspected violator is determined to be a tribal member the officer shall issue to him a Notice to Appear and release him unless:
  - (1) The Field Bond Procedures of this Code are applicable, in which case they shall be instituted before his release, or unless
  - (2) The specific offense with which he is charged provides for his arrest, or unless he is otherwise subject to arrest according to tribal laws governing the arrest of persons on citable offenses, in which case the officer shall arrest him and transport him to tribal jail.
- B. Non-tribal-member Indians
  - (1) If after identification the suspected violator is determined to be a non-tribal-member Indian, the officer shall issue to him a Notice to Appear for the violations alleged, and, if appropriate, implement the Field Bond Procedures of this Code.
  - (2) The officer may also arrest and transport the suspected violator for federal prosecution and/or initiate expulsion procedure as provided by Tribal law.
  - (3) If the specific offense with which he is charged provides for his arrest, or if he is otherwise subject to arrest according to the Tribal laws governing the arrest of persons on citable offenses, the suspected violator shall be arrested and transported to tribal jail.
  - (4) The suspected violator shall sign the Notice to Appear, and if not arrested pursuant to this section shall be released.

Section 4.6 ENFORCEMENT PROCEDURES: NON-INDIANS

- A. If, after identification, the officer determines that the suspected violator is not an Indian, the officer shall issue to him a Notice to Appear for the violations alleged, and, if appropriate, implement the Field Bond Procedures of this Code. The officer may also arrest and transport the suspected violator for federal prosecution and/or initiate expulsion procedure as provided by Tribal law.
- B. The suspected violator shall sign the Notice to Appear and if not arrested for expulsion or federal prosecution shall be released.

Section 4.7 NOTICES TO APPEAR

- A. Notices to Appear constitute the basis for the filing of a civil complaint. One copy of the Notice to Appear shall be filed by the issuing officer with the counsel for the Tribe, who shall prepare and file the corresponding complaint with the Tribal Court.
- B. All hearings to adjudicate civil actions initiated by issuance of Notices to Appear for violations of this Code shall be within five court days of the issuance of the Notice to Appear unless defendant waives his right to a timely hearing.
- C. A Notice to Appear shall inform the suspected violator of the violation charged, the alleged location, date, and time of the violation, and the location, date and time of the hearing set to determine his liability for the acts charged.
- D. If the person issued a Notice to Appear is to be cited and released he must sign the Promise to Appear located on the Notice to Appear. Any member who fails to sign the Promise to Appear shall be arrested and transported to Tribal jail pursuant to Tribal law governing the arrest of suspects on citable offenses, or shall be subject to the Field Bond Procedures of this Code. Any person determined not to be a member who fails to sign the Promise to Appear shall be subject to the Field Bond Procedures of this Code.
- E. Notices to Appear shall inform the person cited that failure to appear at the hearing set for adjudication of the complaint against him will result in the entry of a default judgement against him and forfeiture of bond money or property, and as to Indians will result in the issuance of an arrest warrant for failure to appear, which shall be a separate offense under this section.

Section 4.8 FIELD BOND PROCEDURES

If a suspected violator

- (1) Refuses to sign a Promise to Appear, or
- (2) Cannot be, or refuses to be, identified or
- (3) Is not a member and is not permanent resident of the reservation,

AND if the officer determines that

- (1) Seizure of the suspected violator's property is directly necessary to secure the important tribal interest of guaranteeing the presence within Tribal jurisdiction of sufficient assets of the suspected violator to secure payment of restitution to the Tribe for any damages determined by the court to have resulted from violation of this Code, AND

- (2) There is a special need for prompt action because it is likely that the suspected violator will leave the Reservation and the jurisdiction of the White Mountain Apache Tribe with his property and not return,

then the officer may demand that the suspected violator post a bond in an amount equal to the sum of the Liquidated Damage Amounts for which he could be found liable by the Tribal Court for the violations the officer has alleged in the Notice to Appear.

#### Section 4.9 BOND NOTICES

- A. In all cases where it is feasible, the officer shall prepare and issue a Bond Notice to a suspected violator, allow him to read it, and have him sign the Bond Notice before the officer takes possession of any bond property.
- B. The Bond Notice shall inform the suspected violator of:
  - (1) The officer's authority under this Code to demand and, if necessary, seize bond property;
  - (2) The violations alleged and the Liquidated Damage Amount for each, and the total amount;
  - (3) The alternative methods of posting bond as set forth in this Code;
  - (4) The fact that failure to appear at the hearing will result in entry of a default judgement and forfeiture of bond; and
  - (5) The fact that a property bond may be redeemed at any time during normal business hours at the Enterprise Office by the posting of a cash bond, or payment of damages, but that post judgement redemption must occur, if at all, within 30 days of the entry of judgement unless an appeal is filed.
- C. Bond Notices shall be prepared in duplicate and a copy signed by the suspected violator shall be filed by the officer with the copy of the Notice to Appear.
- D. Bond Notices shall contain the name and address of the suspected violator, the serial number of the Notice to Appear which has been issued, the date, and the signature and identification number of the issuing officer, and such other information as the Board of Directors deems necessary.
- E. In any case in which the officer has reasonable grounds to believe that the delay caused by the above BOND NOTICE PROCEDURE could:
  - (1) Jeopardize the safety of the officer, or
  - (2) Lead to a breach of the peace, or



- (3) Cause the officer to lose the opportunity to seize bond property, or
- (4) Give the suspected violator the opportunity to flee the jurisdiction of the Tribe,

the officer may seize bond property first and then issue a BOND NOTICE.

#### Section 4.10 BOND ALTERNATIVES

##### A. Cash Method

The suspected violator may post a cash bond in the specified amount with the officer.

- 1) Upon receipt of the cash bond, the officer shall prepare a Bond Receipt for the amount received, which shall be on the official form provided by the Board of Directors for that purpose, and which shall contain the name of the suspected violator, the serial number of the Notice to Appear issued to him, the date, the bond amount, and the signature and I.D. number of the issuing officer. One copy of the bond receipt shall be issued to the suspected violator.
- (2) The suspected violator shall sign the Bond Receipt and the officer shall retain and file a signed copy with the filed copy of the Notice to Appear.
- (3) The officer may accept a personal check or any other non-cash form of payment only as provided for by regulation of the Board of Directors, and under such conditions as provided by those regulations.
- (4) If the suspected violator is found to be not liable to the Tribe after a trial or a hearing, the bond amount shall be returned in full. If he is found liable after a trial or a hearing, or by default due to failure to appear, the bond shall be applied in satisfaction of the judgement, and any excess shall be returned to him.

##### B. Property Method

The suspected violator may post as bond with the officer any property which the officer reasonably believes is valued at an amount at least equal to the required bond amount.

- (1) Upon receipt of bond property, the officer shall give to the person from whom he received it a Bond Receipt as provided by section 4.10 (A) above, except that instead of the cash amount received the receipt shall contain a complete description of the property including all serial and model numbers. The bond receipt shall also contain the officer's estimate of the value of the property.

- (2) The suspected violator shall sign the Bond Receipt and the officer shall retain and file a signed copy as in section 4.10 (A) above.
- C. The suspected violator may choose between the following alternatives as to the disposition of his bond property:
- (1) He may leave the property in the custody of the White Mountain Apache Tribe until after the trial or hearing, at which time, if he has not been found liable to the Tribe it shall be returned to him. If he is found to be liable to the Tribe, or is in default due to failure to appear, it will be held as security for payment of the judgment, and will be returned upon payment in full. If payment in full is not received within thirty days of the date of judgment, and if an appeal is not filed as provided by Tribal law, the property shall be sold at a public auction, and the amount received shall be applied to the judgment and the costs of sale and storage. Any excess shall then be returned to the judgment debtor; or
  - (2) He may redeem his property at any time during normal business hours at the Enterprise Office by posting a cash bond in an amount equal to the sum of the Liquidated Damage Amounts for the violations with which he is charged, or by paying damages as determined by the court. Redemption must occur, if at all, within 30 days of the entry of judgment unless an appeal is filed.

#### Section 4.11 CASH BOND TRUST FUND

Within two business days of being posted all cash bonds shall be deposited in a trust account established by the General Manager for that purpose.

#### Section 4.12 BOND PROPERTY STORAGE

All bond property shall be deposited in the keeping of the General Manager for secured storage within 24 hours of being posted.

#### Section 4.13 INVOLUNTARY SUMMARY SEIZURE OF BOND PROPERTY

Any authorized officer who has followed the procedures of this Code may use any reasonable non-deadly force necessary to seize bond property from a suspected violator who refuses to comply with the bond procedures provided by this Code.

#### Section 4.14 PROHIBITED DEVICES

- A. Any device which is believed by an authorized officer to belong to a non-member, and which cannot be used at any time in compliance with this Code for the taking of wildlife, and which is seen in such use by the officer, may be summarily seized by the officer if:

- (1) Seizure of the suspected violator's property is directly necessary to secure the important Tribal interest in preventing irreparable injury to its property or resources, AND
  - (2) There is a special need for prompt action because it is likely that the person may flee with, or conceal the offending property or continue the prohibited use of such property during any enforcement delay.
- B. Any officer seizing property under this section shall issue to the person from whom it is seized a receipt for the property describing it in detail. The officer shall then deliver the property to the General Manager for safe keeping pending the outcome of all hearings on the seizure and the underlying violations, which shall be adjudicated pursuant to the general procedures of this Code.
  - C. In addition to filing any other complaints for the illegal use or possession of the seized property, the counsel for the Tribe may apply to the court for an injunction prohibiting the continued use or possession of the property on the Reservation.
  - D. In addition to adjudicating the underlying complaints of illegal possession or use, the court shall make a special finding as to the ownership of the seized property. If the property is found to belong to a non-member, the court shall return the property to its owner, unless it determines that continued retention of the seized property is necessary to secure payment of a judgement as provided by the Bond Procedures of this Code.
  - E. The court shall advise the owner of the terms of any injunctions which have been issued against his continued use or possession of the property on the Reservation, and shall further advise him that violation of the injunction is contempt of court and may subject the violator to further civil liability.
  - F. If after considering the evidence, the court determines that the seized property belongs to a member, or an unknown person it shall follow the procedures established by this code for the disposition of seized prohibited devices owned by members or unknown persons.
  - G. Any device, the ownership of which is unknown, or which is believed by an authorized officer to belong to a member, and which cannot be used at any time in compliance with this Code for the taking of wildlife, and which is seen in such use by the Officer, may be summarily seized by the officer. Notice of intent to confiscate the seized device, on a form provided for that purpose by the General Manager, and a Notice to Appear for illegal use and/or possession shall be either personally delivered or sent by registered mail to the last known address of the person who owns the property, if the identity of the owner is known.

- H. If the owner of seized property cannot be determined, the complaining officer shall prepare a Notice of Intent to Confiscate and a Notice to Appear designating the defendant by a fictitious name following the procedures of section 4.4, and including a complete description of the property, the date of seizure and the location of seizure. The officer shall file these notices with the counsel for the Tribe, who shall then prepare a complaint and file the complaint and the Notice of Intent to Confiscate with the Court Clerk. The Court Clerk shall cause them to be posted in the Court and published in the Apache Scout for four consecutive issues. The hearing on the matter shall be set for the first available date after the publication period has ended, and the date of the hearing shall be included in the posted and published notices.
- I. If at the trial or hearing on the Notice to Appear the judge finds that the property belongs to a member, or if the owner does not appear, and if the property is found to have been used illegally, the judge may order, in addition to any other sanction imposed for the violation, that the property be forfeited to the Tribe. In case of such forfeiture, the General Manager shall dispose of the property in the manner which he determines to be most consistent with the goals of the Enterprise, choosing between destruction of the property, sale for the benefit of the Enterprise at public auction, or retention of the property for Enterprise uses.

Section 4.15 DISPOSITION OF FEES, FORFEITURES, PENALTIES; AND DAMAGES: REPORT

- A. All fees resulting from the sale of permits by the Enterprise and its agents, and all fines, costs, monies, penalties or damages collected for violations of this Code shall be deposited in the Enterprise Fund and shall be available for expenditure in connection with the conservation and protection of the fish and wildlife of the Fort Apache Indian Reservation; provided, however that bonds, unless forfeited, shall be deposited in a Trust account as provided by Section 4.11.
- B. Each Tribal Judge or clerk of the court shall, within twenty days after a judgment has been rendered under the provisions of this Code, report in writing to the Board of Directors the results of the adjudication, the amount of fines, forfeitures, damages or penalties collected, and disposition thereof.

Section 4.16 DISPOSITION OF SEIZED WILDLIFE AND PROPERTY

- A. Wildlife seized under this code may be disposed of in such manner as the Board of Directors may prescribe.
- B. The General Manager shall prepare a report of all wildlife and devices seized by the Game Rangers or other authorized officers showing a description of the items, the persons from whom they were seized, if known, and the disposition of the items. This report shall be presented to the Board of Directors annually and kept by the Enterprise. All money derived from the sale of any seized property shall be deposited in the Enterprise Fund.

## GENERAL REGULATIONS

### Section 5.1 TIME AND METHODS OF TAKING WILDLIFE

- A. Wildlife, except fish and bullfrogs, shall be taken only during daylight hours unless otherwise provided by the Board of Directors with the approval of the Tribal Council.
- B. No person shall take or attempt to take any species of wildlife with the use of a jacklight, other artificial light, or saltlick, or with the use of any contrivance designated a "public nuisance" by this Code.
- C. No person, while armed with a firearm or other weapon which discharges a projectile capable of taking big game or domestic livestock, and which is readily available for use, shall search for big game or domestic livestock by casting the rays of a spotlight or other artificial light into any field, pasture, woodland, forest, prairie, or other area where big game or domestic livestock may reasonably be expected to be. Law Enforcement Officers shall be exempt from the provisions of this section while in the performance of their duties.
- D. No person shall use protected wildlife or any edible part thereof as bait in taking any wildlife.
- E. Wildlife, except fish and bullfrogs, shall not be taken by any person who is within or upon, or is using any method within, upon or attached to, a vehicle, automobile, aircraft, train, powerboat, sailboat, watercraft, or floating object towed by watercraft.
- F. No person shall shoot from a vehicle or otherwise wantonly or willfully discharge any firearm upon, from, across, or into a road or railway.
- G. No big game animal may be taken with the aid of a dog or dogs, except bears and mountain lions.
- H. Fish may be taken only by angling unless otherwise provided by the Board of Directors with the approval of the Tribal Council. The line shall be constantly attended, and the hook, fly, or lure shall be used in such a manner that the fish voluntarily take or attempt to take it in their mouths.

### Section 5.2 TAKING OR DRIVING WILDLIFE FROM CLOSED AREAS

No person shall enter upon a game refuge or other area closed to hunting and fishing and take or drive, or attempt to take or drive wildlife from such areas, except as may be authorized by the General Manager in writing.

### Section 5.3 POSSESSION OF FIREARMS OR GAME TAKING DEVICES IN CLOSED AREAS; EXCEPTION, PERMITS

- A. No person shall carry, transport, or have in his possession devices for taking game within or upon a game refuge, except as may be authorized by the General Manager in writing.

- B. During closed season on all hunting, the entire Reservation shall be deemed a game refuge for the purposes of subsection A, to the extent that circumstances reasonably indicate that a person carrying, transporting or possessing devices for taking game is using, has used, has attempted to use, or is attempting use such devices in violation of a provision of this Code.
- C. This Section shall not apply to peace officers or game rangers who are authorized to carry firearms and are in the performance of official duties, nor to persons who are crossing the Reservation over state highways carrying unloaded devices.
- D. The provisions of this Section shall not prohibit a lessee, permittee, or his family or employee or a tribally licensed trapper or hunter from carrying firearms pursuant to the rights and duties of his lease, permit or license.

Section 5.4 IMPORTATION, TRANSPORTATION, RELEASE OR POSSESSION OF LIVE WILDLIFE

No person shall import or transport onto the Reservation to sell, trade, or release within the Reservation, or possess, any live wildlife except as authorized by the General Manager.

Section 5.5 POSSESSION, STORAGE, SALE AND GIFT OF THE CARCASS OR PARTS OF WILDLIFE

- A. The carcass, or parts of the carcass, of wildlife lawfully obtained may be possessed by the person who took such wildlife, and may be placed in storage in accordance with the provisions of this Code. Possession of wildlife unlawfully obtained anywhere is unlawful.
- B. Except as provided by subsection C below, the purchase and/or sale by any person of any wild game taken on the Reservation, including amphibian, wild bird, or fish, or the possession of such purchased or sold game is unlawful.
- C. Heads, horns, antler, hides, feet, or skin of wildlife lawfully taken, or the treated or mounted specimens thereof, may be possessed, sold and transported at any time, except that migratory birds and parts thereof may be possessed and transported only in accordance with federal regulations.
- D. A person may make a gift of the carcass or parts of the carcass of his lawfully obtained wildlife, or he may have it prepared in a public eating place and served to himself and his guests.
- E. A person who has legally killed a big game animal may authorize the transportation or shipment of such animal by filling out and signing the Transportation and Shipping Permit issued as part of the Big Game Permit by the Recreation Enterprise.
- F. A tribal Transportation Permit must accompany the carcass of any wildlife possessed or being transported until it reaches the hunter's permanent abode or the commercial processing plant where it is to be processed.

- G. Commercial food establishments processing or storing wildlife shall stamp all packages containing such wildlife with a stamp furnished by the Recreation Enterprise and such packages shall be marked with the date received or processed. The operator of such an establishment shall keep a record of the names and addresses of persons who furnish such wildlife for processing or storage, and the date, amount, and species of such wildlife received, and shall exhibit such record to an agent of the Enterprise upon request.

Section 5.6 DUTY TO REPORT SHOOTING ACCIDENT RESULTING IN INJURY OR DEATH; DUTY TO GIVE ASSISTANCE

- A. Any person who, while taking wildlife, is involved in a shooting accident resulting in injury to any person shall render every possible assistance to the injured person, and he shall immediately report the accident to the nearest law enforcement officer after rendering such assistance.
- B. Such person shall within ten days file with the General Manager a full and complete written report of such accident.

Section 5.7 MISUSE OF FIREARMS

- A. No person, while taking wildlife, or while in any hunting area, shall handle or discharge any firearm while intoxicated, or in a careless or reckless manner, or with wanton disregard for the safety of human life or property.
- B. Nothing in this section shall be construed in any way to preclude prosecution of any person who kills or injures another.

Section 5.8 USE OF PACK OUTFITS PROHIBITED

The use of pack outfits on the Reservation is prohibited except by written permission of the General Manager.

Section 5.9 SETTING OF FIRES

The willful or careless setting or starting of a forest fire, brush, or grass fire or other destructive fire by any person while on the Reservation is unlawful.

Section 5.10 WILDLIFE DEPREDATIONS; INVESTIGATION; CORRECTIVE MEASURES; DISPOSAL; REPORTS; APPEAL

- A. Any person suffering property damage from wildlife may exercise all reasonable measures to alleviate such damage except that reasonable measures shall not include injuring or killing game mammals or game birds.
- B. Any person suffering such property damage may, after resorting to such relief as is provided in subsection A, file a written report with the General Manager advising him of the damage suffered, and the species of animals causing such damage, and the General Manager shall forthwith order an investigation and report by an employee trained in the handling of wild animal depredations.

- C. The Game Rangers shall provide technical advice and shall assist in the necessary anti-depredation measures recommended in the report.
- D. If removal of animals is found to be necessary to prevent further damage, the Board of Directors may

1) With the approval of the Tribal Council establish special seasons and/or special bag limits and either set reduced fees or waive any or all permit fees required by this Code for the taking of such wildlife;

or

2) Issue a special permit for the taking of such wildlife to the property owner suffering damage, if the General Manager determines that method number 1) is impractical. The edible portions of all such wildlife taken by the person suffering damage shall be turned over to an agent of the Enterprise for delivery to a public institution or charitable organization.

or

3) Direct an authorized officer to trap, capture, or otherwise take such wildlife for removal.

Section 5.11 TAKING OF BEAR OR MOUNTAIN LION FOR PROTECTION OF PROPERTY; REPORT

- A. Other provisions of the Code notwithstanding, a livestock association or tribal member who is a livestock operator, who has had livestock attacked or killed by bear or mountain lion, may use such measures as are necessary to prevent further damage, including taking the bear or mountain lion, or contracting with another person for such taking.
- B. A license tag shall not be required for the taking of a bear or mountain lion under this Section, but within ten days after the taking, the livestock owner or association shall report in writing to the General Manager stating the location where the animal was taken and the number and kind of livestock that were attacked or killed.
- C. No portion of an animal taken pursuant to this Section shall be retained by any person.
- D. No animal trapped or taken alive under this Section shall be held in captivity.

Section 5.12 HAZARDOUS OR NUISANCE ANIMALS IN CAMPGROUNDS, ETC.; REPORT; ABATEMENT PLAN

- A. Whenever it comes to the attention of an authorized officer that bears or other wild animals are in the process of creating a nuisance or hazard at a camping or other public use area, the



officer may use whatever means are necessary to prevent injury to persons in the area, or damage to property; provided, however, that no animal shall be killed except to protect persons who are in immediate danger, or as provided in an Abatement Plan pursuant to subsection C of this section.

- B. Any authorized officer who learns of or is involved in an incident involving nuisance or hazardous animals in a camping or other public use area shall file a written Animal Nuisance/Hazard Report with the General Manager advising him of the species of the animal, the date, time, and location of the incident, and the nature of the hazard or nuisance.
- C. The General Manager, upon receipt of an Animal Nuisance/Hazard Report shall order an investigation and report by an employee trained in the handling of animal depredations. If, in consultation with that employee, and with the Enterprise biologist, the General Manager determines that the nuisance or hazard is likely to be of a continuing or repetitious nature, he shall formulate a written Animal Nuisance/Hazard Abatement Plan to remedy the nuisance or hazard and shall implement the plan.
- D. An Abatement Plan formulated pursuant to this section may authorize the trapping, tagging, moving, or killing of hazardous or nuisance animals if necessary for the safety of the public or the protection of property from repeated damage.
- E. No animal trapped pursuant to this section shall be kept in captivity for longer than is necessary to tag and transport the animal to another area for release.
- F. Any animal killed pursuant to this section shall be disposed of pursuant to the provisions of Section 5.13 B. and C.
- G. After an Abatement Plan has been implemented, the General Manager shall prepare and file a report on the methods used and the final results, including the disposition of any animal killed pursuant to the plan.

Section 5.13 INJURED ANIMALS; TAKING BY AUTHORIZED PERSONNEL; DISPOSITION; DISPLAY

- A. Whenever it comes to the attention of an authorized officer that an animal has been injured to such a degree that it is unlikely that animal will recover from its injury, the officer shall, as soon as possible, describe the animal, its injury, and its location to the Director, or Enterprise biologist, or Game Ranger Supervisor, who, if it appears that the animal will not recover, may order that the animal be shot and killed. If the location of the animal is such that it is not possible for the officer to obtain authorization within a reasonable time, the officer may kill the animal, and then comply with the provisions of subsections B., C., and D. of this section.

- B. Any animal killed pursuant to subsection A shall be transported to the Enterprise biologist, who shall gather such data and make such tests upon the animal as he deems necessary.
- C. After the provisions of subsection B. have been complied with, an authorized officer shall transport all useful parts of the animal to a public institution or charitable organization for its use, or, if so ordered by the General Manager, the animal may be mounted and displayed for public education in the Enterprise office.
- D. The officer who killed the animal shall prepare and file a report on the incident providing a brief description of his compliance with each part of this section.

## CHAPTER 6

### PERMITS

#### Section 6.1 PERMIT REQUIRED

- A. Except as provided under this Code, no person shall take or attempt to take any wildlife on the White Mountain Apache Reservation unless at the time of taking or attempted taking he has a valid tribal permit to do so in his personal possession.
- B. No person taking or attempting to take wildlife on the reservation shall fail or refuse to exhibit his permit(s) to do so to an authorized officer upon request.
- C. Fees and regulations to carry out the provisions of this section shall be prescribed by the Board of Directors and approved by the Tribal Council.
- D. No State of Arizona hunting or fishing licenses or permits shall be required on the Reservation.

#### Section 6.2 FORM AND CONTENTS OF PERMITS; DUPLICATE PERMITS; PERIOD OF VALIDITY

- A. Permits shall be prepared by the Enterprise and furnished to the dealers authorized to issue permits. The permit shall be issued in the name of the White Mountain Apache Tribe. Each permit shall be signed by the permittee in ink on the face thereof and any permit not so signed is invalid. With each permit authorizing the taking of big game the Enterprise shall provide such tags as the Board of Directors may prescribe, which the permittee shall attached to the game animal in such a manner as is prescribed by the Board of Directors.
- B. It shall be unlawful, except as provided by the Board of Directors, for any person to obtain and sign as a permittee in any one permit year more than one original permit for the taking of each big game species. The Enterprise may issue a duplicate permit, provided that the person requesting such duplicate permit furnishes

the information deemed necessary. A fee to be determined and published by the Board of Directors shall be collected for each duplicate permit issued.

Section 6.3 PERMIT AGREEMENTS REQUIRED

All persons to whom permits are issued by the Recreation Enterprise shall be required to sign a PERMIT AGREEMENT before any such permit shall be valid. The PERMIT AGREEMENT shall be in the form provided by section 6.4. The PERMIT AGREEMENT shall be signed by the applicant in the presence of the permit dealer who issued the permit, or his agent.

Section 6.4 PERMIT AGREEMENT FORM

A. Permit Agreements shall be printed on the back of all permits and shall take the following form:

I \_\_\_\_\_, hereby agree, as consideration for the granting of this permit, that the following terms and conditions govern my use of the permit, my presence on the White Mountain Apache Reservation, and my use of Tribal resources and services:

1. I agree to obey all Tribal laws and regulations.
2. I consent to the absolute and exclusive jurisdiction of the White Mountain Apache Tribal Court as the forum for the resolution of any disputes arising from my presence on the Reservation and/or use of Tribal resources and/or services.
3. I understand that permission for me to enter the White Mountain Apache Reservation is conditioned on my obedience of Tribal laws and regulations and that violation of such laws and regulations makes me a trespasser and may subject me to arrest, tribal and federal court action, expulsion from the Reservation, and seizure of property as security for payment of potential financial obligations to the Tribe.
4. I understand that wilfully using Tribal resources or services contrary to the terms of Tribal law or regulation constitutes theft of Tribal assets and is a violation of Tribal and federal law.
5. I agree to be bound by the liquidated damages provisions of Tribal law in the event that I am found liable to the White Mountain Apache Tribe for violations of Tribal law.

I have read and understand the above terms and agree to be bound by them.

\_\_\_\_\_  
Signature of Permittee

\_\_\_\_\_  
Date

- B. The front of each permit shall contain the following words:

"This permit not valid unless Permit Agreement on reverse side is signed in ink by permittee in presence of permit dealer".

#### Section 6.5 PARTICULAR PERMITS

- A. TRIBAL MEMBER HUNTING PERMIT: DEER, ELK, ANTELOPE, TURKEY, JAVELINA, BEAR, LION, BIG HORN SHEEP

Permits for hunting deer, elk, antelope, turkey, javelina, bear, big horn sheep and lion are required of Tribal members pursuant to regulations approved by the Tribal Council.

- B. FISHING PERMITS

(1) Non-member Permit: Any non-member, resident or non-resident, may purchase a fishing permit which shall entitle him to fish in the Reservation streams and lakes during the open season of the permit year. Fees and regulations, including seasons and the fishing areas to be opened, shall be prescribed by the Board of Directors and approved by the Tribal Council.

(2) Tribal Members Permit: Permits for fishing on the Reservation shall not be required for members of the Tribe.

- C. ELK HUNTING PERMITS

Non-member Permit: Any non-member, resident or non-resident, may apply to purchase an elk hunting permit which will entitle him to hunt elk on the Reservation during the open season of the permit year. Fees and regulations, including seasons, the hunting areas to be opened, the number of elk permits to be issued, and the method to be used to determine which applicants receive permits, shall be prescribed by the Board of Directors and approved by the Tribal Council.

- D. TURKEY HUNTING PERMITS

Non-Member Permit: Any non-member, resident, or non-resident, may be issued a turkey hunting permit only at such times, and under such rules and regulations as may be prescribed by the Board of Directors and approved by the Tribal Council.

- E. DEER HUNTING PERMITS

Non-Member Permit: Permits which entitle the permittee to hunt deer on the Reservation shall not be issued to any non-member, resident or non-resident, except as may be specifically authorized and regulated by the Tribal Council.

F. JAVELINA HUNTING PERMIT

Non-Member Permit: Any non-member, resident, or non-resident, may purchase a javelina hunting permit, under such rules and regulations as are prescribed by the Board of Directors and approved by the Tribal Council.

G. SMALL GAME PERMITS

- (1) Non-Member Permit: Any non-member, resident or non-resident, may be issued a small game permit only at such times, and under such rules and regulations as may be prescribed by the Board of Directors and approved by the Tribal Council.
- (2) Tribal Member Permits: Permits for hunting small game on the Reservation shall not be required for members of the Tribe.

H. TRAPPING PERMITS

- (1) Tribal Member Permit: No trapping shall be permitted on the Reservation by tribal members except as authorized by the General Manager and approved by the Tribal Council
- (2) Non-Member Permits: No trapping permit shall be issued to a non-member except as authorized by the General Manager and approved by Tribal Council.
- (3) The Board of Directors shall prescribe such rules and regulations as may be necessary to carry out the provisions of this section, subject to the approval of the Tribal Council.

I. MINOR HUNTING AND FISHING

- (1) Non-Member Minor Fishing: A non-member child under the age of 10 may fish without a permit when accompanied by an adult permit holder. A non-member child between the ages of 10 and 14 years must have a Juvenile Fishing Permit. A non-member child over the age of 14 must have an adult Fishing Permit.
- (2) Non-Member Minor Hunting: A non-member under the age of fourteen (14) years may hunt small game or migratory birds if accompanied by a person holding a valid tribal permit for that activity.
- (3) Non-Member Minor Big Game Hunting: A non-member under the age of fourteen (14) years of age may not take big game. A non-member between the ages of fourteen (14) and (17) years of age inclusive, may take big game only if said minor possesses a valid tribal permit and is accompanied by a person eighteen (18) years or older.

- (4) Member Minor Big Game Hunting: A member under the age of fourteen (14) years may not take big game. A member between the ages of fourteen (14) years of age and 17 years of age inclusive, may take big game only if said minor has obtained a valid tribal permit, as may be required under this code, and is accompanied by a person eighteen (18) years of age or older.

J. FALCONRY PERMITS

- (1) The General manager may issue a permit to capture and keep in the permittee's possession a Cooper's, Sharp Shinned, Rattail, Harris, American Kestrel or Goshawk for use in the practice of falconry on the Reservation.
- (2) All raptor permits shall expire on December 31st of each year.
- (3) Raptors may be captured only in those areas prescribed by the Board of Directors.
- (4) Permits required by this section must be in the possession of the permittee whenever he is on the Reservation and practicing faconry.
- (5) The Board of Directors shall prescribe such rules and regulations as are necessary to carry out the provisions of this section.

K. Non-tribal members who are married to tribal members shall not have any hunting or fishing privileges by reason of such marriage, except as may be provided by the Tribal Council.

L. The Board of Directors, with the approval of the Tribal Council, may prescribe additional regulations to implement the permit provisions of this Code.

Section 6.6 SELECTION OF BIG GAME HUNTERS

- A. Any person desiring to participate in any elk hunt on the Reservation shall complete an application on forms provided by the Office of the Recreation Enterprise.
- B. All applications must be signed by the applicant, and accompanied by the permit fee designated.
- C. Permits are neither transferrable nor refundable.
- D. The Board of Directors may prescribe such rules and regulations as are necessary to carry out the provisions this section.

Section 6.7 CAMPING PERMITS; REGULATIONS

- A. Except as specifically authorized in writing by the General Manager, no person shall camp in other than a designated campsite.
- B. Any non-member or non-members occupying a campsite shall first have obtained a Tribal camping permit, and such permit shall be available for inspection at all times during which the campsite is occupied. One permit is required for each campsite occupied.
- C. Camping permits are not transferable, and transferring a permit to, or receiving a permit from, another person is unlawful.
- D. Except as specifically authorized in writing by the General Manager, campfires shall be permitted only in designated campsites.
- E. No person shall camp within one quarter mile of a wildlife or livestock watering hole, or in any area which is posted as a "No Camping" area.
- F. Tribal members shall not be required to obtain camping permits.
- G. The Board of Directors, with approval of the Tribal Council, shall prescribe such rules and regulations as it deems necessary to implement the provisions of this Section, including regulations setting the fee for camping permits.
- H. Camping permits are required in addition to any other permits required by this Code for the other activities in which campers may engage, and are not a substitute for other permits.
- I. (1) In addition to pursuing any other remedies provided by this Code for its violation, the Board of Directors, after notice and an administrative hearing, may suspend or revoke the camping privileges of any violator of this Section for a period not to exceed five years. Before any such suspension or revocation, the Board shall notify the person whose privileges may be suspended to appear and show cause why they should not be suspended. Notice of the hearing shall be sent by registered mail to the violator's last known address within ninety days of a determination by the Tribal Court that the person is liable for any such violation. The decision of the Board of Directors may be appealed to the Tribal Court within thirty days of the rendering of that decision.  
  
(2) The Board of Directors shall furnish to permit dealers the names and addresses of persons whose permits have been revoked or suspended, and the periods for which

they have been denied the right to secure permits. It shall be unlawful for any person to issue a permit of any kind to a person whose privilege to obtain that permit he knows to have been revoked or suspended. Any permit issued to a person whose privilege to have that permit has been suspended or revoked shall be void.

Section 6.8 SALE OF PERMITS; BOND OF PERMIT DEALERS

- A. Hunting, fishing, and other permits shall be issued by persons designated as permit dealers by the Board of Directors. After notice and a hearing, the Board may suspend or revoke a dealer's license for failure to comply with rules and regulations of the Board or Tribal Council.
- B. Permit dealers shall furnish the Tribe a bond in an amount deemed necessary by the Board of Directors to protect the interest of the Tribe, and the premiums on such bonds shall be paid by the permit dealer.

Section 6.9 REPORTS AND RETURNS BY LICENSE DEALERS; PENALTY FOR NONCOMPLIANCE

Each license dealer shall by the tenth day of January or within thirty days of a demand by the Board of Directors, return to the Board all unused permits. Failure to comply with the provisions of this section may result in civil and/or criminal liability.

Section 6.10 REVOCAION AND DENIAL OF RIGHT TO OBTAIN PERMIT: NOTICE

- A. In addition to pursuing the other remedies provided by this Code, the Board of Directors, after notice and an administrative hearing, may suspend or revoke, for a period not to exceed five years, the permit and privilege to take wildlife of any person who:
  - 1. Unlawfully takes or possesses wildlife;
  - 2. Carelessly uses a firearm or other weapon;
  - 3. Destroys, injures, or molests livestock, or damages or destroys crops, personal property, notices, signboards, or other improvements while taking wildlife;
  - 4. Litters tribal hunting or fishing areas while taking wildlife.
- B. Before any such suspension or revocation, the Board shall notify the person whose privileges may be suspended to appear and show cause why they should not be suspended. Notice shall be sent to the violator's last known address by registered mail within ninety days of a determination by the Tribal Court that the person is liable for any of the above violations. The decision of the Board may be appealed to the Tribal Court within thirty days of the rendering of that decision.



- C. The Board of Directors shall furnish to permit dealers the names and addresses of persons whose permits have been revoked or suspended, and the periods for which they have been denied the right to secure permits.
- D. It shall be unlawful for any person to issue a permit of any kind to a person whose privilege to obtain that permit he knows to have been suspended or revoked. Any permit issued to a person whose privilege to have that permit has been revoked or suspended shall be void.

Section 6.11 OBTAINING PERMIT BY FRAUD OR ASSIGNMENT

- A. No person shall, by fraud or misrepresentation, obtain a permit to take wildlife, and a permit so obtained is void and of no effect from the date of issuance thereof.

Section 6.12 TRANSPORTATION PERMITS

- A. A person may transport big game legally taken by another provided that the big game has attached to it a permit for the taking of that game endorsed by the person who took it. Wildlife shall be transported in such a manner that it may be inspected by authorized persons upon demand until the wildlife is processed. No person shall possess more than one bag or possession limit of any species of wildlife, except for the purpose of transportation.

Section 6.13 SHIPMENT BY COMMON CARRIER

- A. No person shall deliver for transportation to any common carrier, and no common carrier shall transport, any wildlife except as provided for under this code.
- B. Wildlife may be shipped during the open season, or within 2 weeks thereafter, but such shipment shall not exceed the possession limit for any one species, and no more than one such possession limit may be shipped in a period of seven consecutive days. When shipped, a valid transportation permit shall be firmly attached to such shipment and the shipment shall be clearly and conspicuously labeled with the name and address of the consignor and consignee and an accurate statement of the contents of package.

Section 6.14 GUIDES; APPOINTMENT; LICENSES; DUTIES; REPORTS; CARRYING FIREARMS

- A. No person shall act as a guide without first satisfying the General Manager of his qualifications and without having procured a permit to do so. No person under the age of eighteen years shall be issued a guide permit. If a licensed guide fails to comply with the provision of this Code or is found liable for violating any provision of this Code, his license may, after notice and a hearing, be revoked by the Board in addition to any other remedy provided by this Code for the underlying violation.

- B. Each guide shall, by the tenth of January of each year, or at the earlier request of the Board of Directors, report to the Board on forms provided therefor, the name and address of each person guided, the number of days the guide has been so employed, and the number and species of game animals taken. No guide permit shall be issued to any person who has failed to deliver the report to the Board for his preceding permit year, or until he has met such other requirements as the Board may prescribe.
- C. No person acting as a guide shall carry firearms other than a pistol.

## CHAPTER 7

### VIOLATIONS

#### Section 7.1 TAKING BIRDS

- A. 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 General Manager. Nothing in this Code shall be construed to prohibit the taking of such birds for scientific purposes, under permits issued by the General Manager.
- B. The killing of song and insectivorous birds is prohibited. It shall be unlawful for any person or persons on the White Mountain Apache Reservation to shoot, take, ensnare, or trap for the purpose of killing or in any other manner to injure or destroy any song bird or birds whose principal food consists of insects.

#### Section 7.2 OTHER PROHIBITED ACTIVITIES

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

- (1) Fish in any waters of the Reservation without a valid permit in his possession;
- (2) Take fish from any waters on the Reservation in excess of the number permitted by tribal regulations;
- (3) Fish in any waters on the Reservation during a period of the year not permitted by tribal regulations;
- (4) Fish in any manner or place not permitted by tribal regulations;
- (5) Take any amphibians, crustaceans, mollusks, or reptiles in any manner or place not permitted by tribal regulations;
- (6) Litter roads, roadsides, campgrounds, waters or any other tribal land on the reservation;
- (7) Clean fish in streams, springs or lakes;

- (8) Destroy or deface signs, tables, improvements, crops, or personal or real property;
- (9) Obtain by fraud or misrepresentation a permit to fish on the Reservation;
- (10) Take, possess, transport, import, trade, buy, sell or offer for sale any fish within the Reservation, except as permitted by this Code or tribal regulations;
- (11) Allow any fish to go to waste;
- (12) Pollute any Reservation waters;
- (13) Destroy, remove injure or cut any green tree, dead tree, or other firewood on the Reservation without written tribal authorization;
- (14) Cut, damage, or destroy any fence on the Reservation;
- (15) Hunt for small game on the Reservation without a valid permit in his possession;
- (16) Take small game in excess of the number permitted by tribal regulations;
- (17) Hunt small game during a period of the year not permitted by tribal regulations;
- (18) Hunt small game in any manner or place not permitted by tribal regulations;
- (19) Obtain by fraud or misrepresentation a permit to hunt small game on the Reservation;
- (20) Take, possess, transport, import, trade, buy, sell or offer for sale small game within the Reservation, except as permitted by this Code or tribal regulations;
- (21) Allow small game to go to waste;
- (22) Hunt big game on the Reservation without a valid permit in his possession;
- (23) Take big game in excess of the number permitted by tribal regulations;
- (24) Hunt big game during a period of the year not permitted by tribal regulations;
- (25) Hunt big game in any manner or place not permitted by tribal regulations;
- (26) Obtain by fraud or misrepresentation a permit to hunt big game on the Reservation;

- (27) Take, possess, transport, import, trade, buy, sell, or offer for sale big game within the Reservation, except as permitted by this Code or tribal regulations;
- (28) Allow any big game to go to waste;
- (29) Shoot, or attempt to shoot, any wildlife within one quarter mile of any occupied residence, cabin or building, without permission of the owner or resident, or shoot from or across a paved public road;
- (30) Take big game, except bear or mountain lion, with the aid of dogs;
- (31) Obtain any fishing or hunting license during a period for which a license or permit has been revoked;
- (32) Have in his possession, while hunting, any contrivance designed to silence, muffle, or minimize the report of a firearm;
- (33) Enter upon land closed to entry while hunting, fishing, camping, or hiking or while travelling on the Reservation;
- (34) Detach or remove, or attempt to detach or remove, from the carcass of a big game animal a portion thereof for the purpose of misrepresenting or concealing the species or sex of the animal.
- (35) 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;
- (36) Take, possess, transport, buy, sell or offer for sale any migratory bird taken on the reservation, except as permitted by this Code or tribal regulations;
- (37) Take or injure any bird or harass any bird upon its nest, or remove the nest or eggs of any bird, except as permitted by this Code or tribal regulations;
- (38) Carry, transport, or possess devices for taking game within or upon a game refuge, except as permitted by this Code or tribal regulations;
- (39) Misuse firearms as defined in this Code or by tribal regulations;
- (40) Use a pack outfit on the Reservation except as permitted by this Code or by tribal regulations;
- (41) Camp in a designated campsite on the Reservation without a camping permit;
- (42) Camp in any area on the Reservation other than in a designated campground;

- (43) Build a campfire other than in designated campsite;
- (44) Assign a camping permit, or accept an assigned camping permit;
- (45) Camp within one quarter mile of a wildlife or livestock water hole or in an area posted to prohibit camping therein;
- (46) Camp in any place, or manner, or at any time not permitted by this Code or by tribal regulations;
- (47) Cut a hole larger than eight inches in diameter for ice fishing;
- (48) Enter any special use area of the Reservation without a proper Special Use Permit;
- (49) Fish from any boat dock, or pier, or walkway leading to a boat dock or pier;
- (50) Allow any unleashed dog to roam within any campground, populated or public area;
- (51) Dig worms on any part of the Reservation;
- (52) Disobey a lawful order of any official Tribal Officer;
- (53) Take, possess, transport, import, buy, sell or offer for sale, molest or in any way interfere with Big Horn Sheep on the Reservation;
- (54) Picnic on the Reservation without a permit;
- (55) Cross-country ski, snowmobile, sled, tube, or toboggan in an undesignated area or without a permit.

## CHAPTER 8

### WATERCRAFT REGULATIONS

#### Section 8.1 WATER CRAFT PERMITS

- A. The Recreation Enterprise shall be authorized to issue permits for the use of watercraft and recreational vehicles on the Reservation.
- B. All persons using watercraft on the Reservation must have a valid tribal watercraft permit.
- C. Watercraft Permits shall be valid only during the calendar year for which issued and only for the watercraft for which issued. Permits shall be attached to the watercraft so licensed.

- D. Permit fees may be assessed as prescribed by the Board of Directors, and approved by the Tribal Council.

Section 8.2 WATERCRAFT RESTRICTION, EXEMPTIONS

- A. Power boats on all waters of the Reservation are restricted to the use of a single electric motor only, unless otherwise prescribed by the Board of Directors.
- B. Motor restrictions, and the regulations of this part shall not apply to employees of government agencies while on official duty or to emergency boats operated by authorized personnel.

Section 8.3 RULES; REGULATIONS

The Board of Directors may establish such rules and regulations as are necessary to carry out the provisions of this Chapter including, but not limited to, those governing the operation, safety requirements and registration of watercraft on the Reservation, subject to the approval of the Tribal Council.

CHAPTER 9

WILDLIFE HABITAT PROTECTION

Section 9.1 DEFINITIONS

In this chapter, unless the context otherwise requires:

- 1. "Cross-country" means travel over the the countryside other than by road.
- 2. "Road" means any maintained road that has been utilized by the public.

Section 9.2 RESTRICTIONS ON MOTOR VEHICLE USE; RECOMMENDATIONS; AGREEMENTS; RULES; AND REGULATIONS

- A. When the Board of Directors determines that the operation of motor vehicles within a certain area is or may be damaging to wildlife reproduction, wildlife management or wildlife habitat of that area, the Board, with the approval of the Tribal Council, may order the area closed to motor vehicles for such a period as is approved by the Tribal Council, provided that all roads in the area shall remain open unless specifically closed.
- B. The Board may also recommend that particular areas of land be set aside for or made available for the use of cross country vehicles.
- C. The Board may enter into agreements, with the approval of the Tribal Council, with lessees and agencies controlling areas that the Board has made recommendations on pursuant to subsection B. Any such agreement shall stipulate the restrictions, prohibitions

and permitted uses of motor vehicles in such area and the duties of the Recreation Enterprise and such lessee or agency relating to the enforcement of the terms of such agreement.

- D. The Board shall adopt rules and regulations to carry out the provisions of this section, subject to the approval of the Tribal Council.

#### Section 9.3 NOTICES OF RESTRICTIONS; POSTING; PUBLICATION

- A. For all areas specified pursuant to Section 9.2, the Board shall cause notices of the restrictions, prohibitions or permitted uses of such area to be posted, prior to the effective date of such restrictions, prohibitions or permitted uses, on the main roads and highways entering such area and at such locations as the Board deems appropriate.
- B. In addition to the posted notices required by subsection A of this section, the Board shall cause a notice of such restrictions, prohibitions or permitted uses, together with a description of the area, to be published three times in a newspaper of general circulation on the Reservation prior to the effective date of such restrictions, prohibitions or permitted uses.

#### Section 9.4 PROHIBITION AGAINST VEHICLE TRAVEL

No person shall drive a motor-operated vehicle cross-country on Tribal lands where such cross-country driving is prohibited by this Chapter, or any rules or regulations promulgated hereunder.

#### Section 9.5 EXCEPTIONS

- A. The restrictions, prohibitions or permitted uses established pursuant to 9.2 shall not apply to:
  - 1. Public employees acting within the scope of their employment.
  - 2. Holders of valid licenses and permits. Holders of such licenses and permits shall be limited to the specified purposes and area of travel for which such licenses or permits were issued or granted.
  - 3. Necessary travel within or across restricted or prohibited land by employees and agents of public utilities, or suppliers of water or power acting as agents of the federal government, or to employees or agents of mining companies exercising rights pursuant to any applicable mining law or regulation. Other persons who are regularly engaged in forestry, prospecting or mineral exploration shall, upon application, be issued vehicular access permits by the Enterprise General Manager.
  - 4. A licensed hunter who enters an area solely to pick up a big game animal which he has legally killed.

5. Emergency situations, such as fire or other disasters, or when otherwise necessary to protect life or property.
- B. Parking shall be allowed along open roads in closed areas, except that no vehicle shall be parked or operated at a distance greater than three hundred feet from such roads.

Section 9.6 EXPENDITURE OF FUNDS; SOURCE, FUNCTIONS

The Enterprise may expend such funds as may become available from budget funds appropriated to carry out the provisions of this Chapter, including, but not limited to, expenditures for:

1. Investigations and surveys of actual or possible wildlife habitat damage by motor vehicles and the study of areas to be recommended for cross-country vehicle use.
2. Posting notices of restrictions, prohibitions and permitted uses of motor vehicles.
3. Providing maps.
4. An informational and education program on wildlife habitat preservation and restoration.
5. The enforcement of the provisions of this Chapter or any rule or regulation adopted pursuant to this Chapter.

Section 9.7 SEPARABILITY

If any provision of this Ordinance, or the application thereof, is held invalid, the remainder of this Ordinance, or other applications of such provisions, shall not be affected.