

TRIBAL CODE

CHAPTER: 23:

NATIONAL FOREST GATHERING CODE

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HISTORY NOTE

This Chapter regulates the exercise of the treaty gathering right on National Forest lands within ceded territory as defined in the Treaty of March 28, 1836. The exercise of the right is codified in a Memorandum of Understanding executed between the Sault Ste. Marie Tribe of Chippewa Indians and the United States Department of Agriculture on August 10, 2006. The Memorandum of Understanding required the tribe to adopt a “model gathering code” that is herein implemented as Tribal Code Chapter 23 National Forest Gathering Code.

Current Regulations:

Adopted by Tribal Resolution 2007-02, January 16, 2007, effective immediately.

TRIBAL CODE

SECTION 23

NATIONAL FOREST GATHERING CODE

SECTION 1 - INTRODUCTION

23.101 Title.

This ordinance shall be known as the National Forest Gathering Code.

23.102 Authority.

This ordinance is enacted pursuant to Article VII, Section 1 of the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians

23.103 Purpose.

It is the purpose of this ordinance to:

(1) Provide an orderly and effective system for tribal regulation of treaty-reserved gathering activities applicable to National Forests located in the ceded territory and any National Forest lands within the exterior boundaries of the Reservation of any Signatory Tribe.

(2) Supplement the Tribal Off-Reservation and any applicable On-Reservation Conservation Code for the purposes of regulating the exercise of treaty-reserved gathering rights applicable to National Forests located in the ceded territory.

(3) Implement the provisions of the *Memorandum of Understanding Regarding Tribal-USDA-Forest Service Relations on National Forest Lands Within the Territory Ceded in the 1836 Treaty of Washington and any National Forest Lands within the Exterior Boundaries of the Reservation of Any Signatory Tribe* (hereafter “*Memorandum of Understanding*”), as may be amended from time to time, which has been ratified by the Tribe and which is incorporated by reference herein as if set forth in its entirety.

23.104 Effective Date.

This ordinance shall be effective on the date adopted by the Tribe's governing body.

23.105 Interpretation.

The provisions of this ordinance:

(1) Shall be interpreted and applied as minimum requirements governing the exercise of

treaty-reserved gathering rights applicable to National Forests covered by the *Memorandum of Understanding*;

(2) Shall be liberally construed in favor of the tribe;

(3) Shall be construed consistent with the purposes and provisions of the *Memorandum of Understanding*, as may be amended from time to time, which has been ratified by the Tribe and which is incorporated by reference herein as if set forth in its entirety; and

(4) Shall not be deemed a limitation or repeal of any other tribal power or authority.

23.106 Severability and Non-Liability.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this ordinance.

23.107 Relationship to Tribal Conservation Code and other Tribal Ordinances.

(1) All other ordinances, regulations and resolutions that solely govern treaty-reserved gathering rights applicable to National Forests located in the ceded territory and National Forest system lands located within any Signatory Tribe's Reservation are hereby repealed.

(2)(a) This ordinance is not intended to repeal or replace any provision of the Tribe's Off-Reservation Conservation Code or any applicable On-Reservation Code. It is intended to supplement that Code for the purposes of authorizing or governing the exercise of treaty-reserved wild plant gathering rights applicable to National Forests. It is not intended to apply to the exercise of any other treaty-reserved right that is authorized or governed by the Tribe's Conservation Codes.

(b) Unless otherwise specifically indicated in this ordinance, it is the intent of this ordinance that the provisions of the Tribe's Conservation Codes that generally govern the conduct of tribal members exercising treaty rights applicable in the ceded territory or on a Tribe's Reservation shall apply to tribal members exercising treaty-reserved gathering rights applicable to National Forests pursuant to this ordinance. Such provisions of the Tribe's Off-Reservation Conservation Code or any applicable On-Reservation Conservation Code are hereby declared, and shall be construed, to govern tribal members engaged in the exercise of treaty-reserved gathering rights applicable to National Forests.

23.108 Religious or Ceremonial Use of Natural Resources.

(1) Nothing in this ordinance shall prohibit the harvest or use of natural resources in a manner otherwise prohibited by this ordinance which is harvested, taken or otherwise obtained in a National Forest within the ceded territory or on National Forest system lands within any Tribe's Reservation for religious or ceremonial purposes in accordance with the traditions and customs of the Tribe and with the consent of the Tribe's governing body, or its designee.

(2) In reviewing and taking action on any request for religious or ceremonial harvest, the Tribes' governing body, or its designee, shall take into account the biological impact of the harvest, shall ensure that the harvest takes place in a manner that does not cause biological harm, and shall consult with the local National Forest District office if the requested gathering is to take place in a National Forest Research Natural Area (see Section 3.06(1)).

(3) No member shall fail to comply with the terms and conditions of the any permit issued pursuant to this section or to otherwise comply with the requirements imposed by the Tribe's regarding religious or ceremonial harvest of wild plants in National Forests.

SECTION 2 - DEFINITIONS

23.201 Definitions.

(1) Except for specific terms defined in subsection (2), terms in this ordinance shall have the same definition as provided in the Tribe's Conservation Code.

(2) The following terms, wherever used in this ordinance, shall be construed as follows:

(a) "**Campground**" means any site within a National Forest where the Forest Service, either directly or through a third party contractor, would require a fee from the general public to camp or where some registration process is used to identify the camper and specific camp sites that will be used.

(b) "**Ceded Territory**" means those off-reservation lands ceded by the Tribe or another signatory tribe to the United States of America in the Treaty of 1836.

(c) "**CORA**" means the Chippewa-Ottawa Resource Authority.

(d) "**Designated Tribal Sugarbush**" means a specific site identified and established by the tribal conservation department, in consultation with the Forest Service, for which a site management plan has been developed and for which a sugarbush site permit has been issued.

(e) "**Developed National Forest Campground**" means a location that is clearly marked and identified as a campground by the Forest Service and on which improvements clearly have been made to develop and maintain the site as a campground.

(f) "**Developed Forest Service Recreation Site**" means an area of National Forest

system lands which has been improved or developed for public recreation.

(g) "**Forest Service**" means the United States Department of Agriculture, Forest Service.

(h) "**Forest Service Administrative Site**" means a specific site where an office, storage or other building or structure is located and maintained by the Forest Service as part of its operation and management of a National Forest.

(i) "**Gather**" or "**gathering**" means to take or acquire or attempt to take or acquire possession of any wild plant, or part thereof.

(j) "**Motor vehicle**" means any vehicle which is self-propelled or any vehicle which is propelled by electric power obtained from batteries, but not operated on rails, including, motorcycles, all terrain vehicles, and off-road vehicles.

(k) "**National Forests**" means those lands located within the ceded territory or within the boundaries of any Signatory Tribe's Reservation, that are part of the Hiawatha National Forest or the Huron-Manistee National Forest and are managed by the United States Forest Service.

(l) "**Open Forest Service Timber Sale Contract Area**" means a defined location of a National Forest which has been delineated by the Forest Service for the purposes of a timber sale offering and for which a valid Forest Service timber sale contract has been executed.

(m) "**Reservation**" means those lands and waters encompassed within the boundaries of areas reserved for any Signatory Tribe in Articles Second and Third of the Treaty of March 28, 1836 (7 Stat. 491) and those areas reserved for a Signatory Tribe in Article First of the Treaty of Detroit of July 31, 1855 (11 Stat. 621). See Attachment - 1, identifying each Signatory Tribes' Reservation.

(n) "**Salvage Timber**" means any tree in a Forest Service salvage timber stand, whether alive, dead, down or standing, having a diameter of four inches or greater at breast height.

(o) "**Signatory Tribe**" means an Indian Tribe which is a signatory to the Treaty of 1836, 7 Stat. 491, or such tribe's successor in interest, which is a party to the *Memorandum of Understanding*.

(p) "**Tree with Commercial Value**" means any tree on National Forest system lands, whether alive, dead, down or standing having a trunk diameter of 4 inches or greater at breast height.

(q) "**Tribal Court**" means the judicial or quasi-judicial body designated by a signatory Tribe's governing body to adjudicate civil infractions under applicable Tribal law.

(r) “**Tribal Member**” means an enrolled member of a Signatory Tribe.

(s) “**Research Natural Areas**” means a physical or biological unit within a National Forest in which natural conditions are maintained insofar as possible. These conditions are ordinarily achieved by allowing natural physical and biological processes to prevail without human intervention. However, under unusual circumstances, deliberate manipulation may be utilized to maintain the unique feature that the Research Natural Area was established to protect.

(t) “**Wilderness Areas**” means those parts of a National Forest which are designated units of the National Wilderness Preservation System by the Wilderness Act of September 3, 1964, and such other areas of the National Forest system as are added to the wilderness system by act of Congress.

(u) “**Tribe**” means [fill in the name of signatory Tribe adopting an ordinance/regulations consistent with this Model Code]

(v) “**Vehicle**” means any device in, upon, or by which any person or property is or may be transported, including any frame, chassis, or body of any motor vehicle, except devices used exclusively upon stationary rails or tracks.

(w) “**Wild Plant**” means any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in the natural ecosystem, but for the purposes of this ordinance excludes wild rice.

SECTION 3 - GENERAL REGULATIONS

23.301 Regulatory Authority.

(1) The Tribe asserts legal authority to regulate the exercise of the Tribe’s treaty-reserved ceded territory and on-reservation gathering rights applicable to wild plants found in National Forests.

(2) Any person authorized to enforce this ordinance may seize forthwith wherever found:

(a) any wild plant taken or reduced to possession in violation of this ordinance; or

(b) any wild plant lawfully taken or reduced to possession under this ordinance, upon violation of any provision of this ordinance relating to the possession, use, giving, sale, barter or transportation of such wild plant.

23.302 Permits and Identification -- General.

(1) No member shall gather any wild plant in a National Forest without possessing a valid harvesting permit approved by the Tribe, which may be the member's tribal identification

card required by Subsection (2), or such other permit as this ordinance may require validated for the particular type of activity to be engaged in for the particular season in question.

(2) No member shall gather any wild plant in a National Forest except while carrying a valid picture identification card issued by the tribe, or other form of identification approved by the tribe for such gathering activities.

(3) Except as provided in paragraph (4), the conservation department of any Signatory Tribe may issue such harvesting permits to members of any other Signatory Tribe, provided such other Tribe has enacted an ordinance governing gathering in National Forests that is at least as restrictive as this ordinance.

(4) No member shall gather any wild plant on National Forest system lands within the boundaries of a Signatory Tribe's Reservation without having obtained consent from the Tribe on whose Reservation the member will be gathering wild plants. The host Tribe's conservation department may impose such additional terms, conditions and location restrictions to the permit as it deems necessary or appropriate.

(5) No member shall refuse to display his or her identification documents upon request of any tribal, federal, state, or local law enforcement officer.

(6) No member shall fail to comply with the terms, conditions and location restrictions of a permit issued pursuant to this ordinance.

(7) Except as provided in paragraph (4), the conservation department of any Signatory Tribe is authorized to issue to members permits required by this ordinance and to impose such terms, conditions and location restrictions in those permits as it deems necessary or appropriate. Except as otherwise required by this ordinance, the form of such permits shall be left to the discretion of the tribal conservation department, provided such form shall require the name, address and member's tribal identification number.

23.303 Commercial Wild Plant Gathering Permits.

(1) No member shall gather any wild plants to sell without possessing a valid commercial wild plant gathering permit.

(2) A commercial wild plant gathering permit shall:

(a) identify the permittee or permittees, including the name, address, tribal affiliation and tribal identification number of all members authorized by the permit; and

(b) identify the amount and general location of the plants to be gathered;

(c) require that all members authorized by the permit must possess a duplicate of the permit while engaged in the gathering activity.

(3) A commercial wild plant gathering permit may:

(a) establish limits on the quantity of the plants which may be gathered;

(b) in addition to other area restrictions provided in this ordinance, limit gathering to a specific area or areas;

(c) define or limit the methods which may be employed to gather the plants; and

(d) establish such other conditions or requirements deemed necessary or appropriate by the tribal conservation department.

23.304 Harvest Monitoring.

(1) Generally. No member to whom any permit has been issued under this ordinance shall fail or refuse to provide harvest information when requested by the tribal conservation department, any person authorized to enforce this ordinance, or the Chippewa-Ottawa Resource Authority.

(2) Any records required to be maintained pursuant to this section shall be forwarded annually to the tribal conservation department, or its designee.

(3) No member shall fail to comply with the reporting requirements of this section.

23.305 Emergency Closures.

(1) Notwithstanding any other provision of this ordinance, the Director of the Biological Services Division of the Chippewa-Ottawa Resource Authority or a majority of the Signatory Tribe's conservation departments may order the closure of the harvest activity of any wild plant in a National Forest generally or with respect to a particular location, whenever the continuation of the harvest is likely to cause biological harm to the species involved or if necessary to protect public health or safety. The Director of the Biological Services Division or other representatives of the Signatory Tribes will notify the Forest Service of any proposed closure orders.

(2) Every reasonable effort shall be made to consult with and obtain approval of each Signatory Tribe prior to ordering an emergency closure, but such closure may be ordered without consultation or approval if circumstances require.

(3) An emergency closure shall become effective immediately upon issuance or at such time or date as the closure order may direct. Such closure shall be communicated to each Signatory Tribe by the best and swiftest practical method.

(4) No member shall violate the terms, conditions or restriction of an emergency closure order issued pursuant to this section.

23.306 Harvest and Other Location Restrictions.

(1) Wilderness, Research Natural Areas, and Special Use Areas Established.

(a) Wilderness Areas.

(i) The use of motorized vehicles, boats, machinery, bicycles and other wheeled mechanisms shall be prohibited within designated wilderness areas. This prohibition shall apply to Tribal agencies and tribal staff in addition to individual tribal members.

(ii) Gathering of wild plants within designated wilderness areas shall be prohibited except for religious, medicinal or ceremonial uses and in accordance with the terms of a special permit issued by the Tribe.

(b) Research Natural Areas. Gathering of wild plants within designated research natural areas shall be prohibited except for religious, medicinal or ceremonial uses and in accordance with the terms of a special permit issued by the Tribe.

(c) Special Use Areas. [RESERVED]

(d) It is the responsibility of Tribal members to know the location and boundaries of all designated Wilderness Areas, Research Natural Areas and other Special Use Areas subject to particular restrictions. The following document, as it may be amended from time to time, is hereby adopted and incorporated in this ordinance as if fully set forth herein:

Appendix C, Wildernesses and Research Natural Areas on National Forests, Version 1: [October 2005].

(2) Forest Service Administrative Sites. No member shall gather wild plants under authority of this ordinance on a Forest Service administrative site. It is the member's responsibility to be certain about a Forest Service administrative site. Any uncertainty should be resolved by contacting a Signatory Tribe's conservation department, the Chippewa-Ottawa Resource Authority or the local National Forest District office.

(3) Gathering in Developed Campgrounds. No member shall gather wild plants under authority of this ordinance on any land located within a developed National Forest Campground. It is the member's responsibility to be certain about a developed National Forest campground. Any uncertainty should be resolved by contacting a Signatory Tribe's conservation department, the Chippewa-Ottawa Resource Authority or the local National Forest District office.

(4) Except where firewood is provided at no cost by the campground or where firewood will be used while camping in the campground, no member shall gather firewood in a developed National Forest campground.

(5) Non-National Forest Lands. No member shall gather wild plants under authority of this ordinance on any land located within the boundaries of a National Forest that is not managed by the United States of America and part of a National Forest. This provision does not apply to or otherwise restrict any wild plant gathering on non-National Forest lands that is authorized by another tribal ordinance.

23.307 Harvest of Trees Subject to a Timber Sale Contract or Located Within a Forest Service Timber Sale Contract Area.

(1) No member shall gather any tree under authority of this ordinance without a permit issued pursuant to subs. (4) that is subject to the harvest rights of another in a valid Forest Service timber sale contract. Sometimes these trees are marked with paint. However, it is the member's responsibility to be certain about trees that are subject to a valid Forest Service timber sale contract. Any uncertainty regarding identification of trees subject to a Forest Service Timber Sale Contract should be resolved by contacting a Signatory Tribe's conservation department, the Chippewa-Ottawa Resource Authority or the local National Forest District office.

(2) Within an open Forest Service Timber Sale Contract Area, no member shall undertake any of the following activities under authority of this ordinance without a permit issued pursuant to subs. (4):

(a) Cut down any tree;

(b) Remove the bark of any tree;

(c) Trim or remove the branches from the top half of any tree; or

(d) Trim or remove the branches or other parts, except cones, of any tree that has been cut down by another person.

(3) It is the member's responsibility to be certain about an open Timber Sale Contract Area. Any uncertainty should be resolved by contacting a Signatory Tribe's conservation department, the Chippewa-Ottawa Resource Authority or the local National Forest District office.

(4) (a) A Signatory Tribe's conservation department is authorized to issue permits authorizing Tribal Members and Tribal entities to gather trees within a Timber Sale Contract Area after first consulting with the Forest Service and on such terms and conditions as the Forest Service deems necessary and appropriate. The permit must be specific as to the quantity, species and condition of the materials to be harvested.

(b) No member shall fail to comply with the terms and conditions of a permit issued pursuant to this section.

23.308 Harvest of Certain “Marked” Trees.

(1) No member shall cut down any tree that has been designated with any of the following markings, and no member shall remove, alter or deface any of the following markings:

(a) Paint. Paint may designate the boundaries of a payment unit within a Forest Service Timber Contract Sale Area, boundaries between National Forest system land and other ownerships, a tree being used to collect cones or seeds for nursery stock.

(b) Metal or Wood Forest Service Signs. These signs designate property or National Forest boundaries, indicate legal corners or other survey data, indicate nursery stock, or provide other similar information.

23.309 Permissible Conduct/Assistance by Non-Members.

(1) Conduct which is not expressly prohibited, restricted or otherwise regulated by this ordinance shall be deemed permissible.

(2) Except as provided in subs.(3) or as otherwise provided herein, nothing in this ordinance shall be construed to prohibit a member from gathering in a National Forest with any other person who is not a member of a Signatory Tribe, provided that such other person possesses a license or permit, or is otherwise not prohibited from engaging in the activity involved and complies with applicable laws.

(3) No member shall allow any person who is not a member to assist, and no such person shall assist, in the activities authorized by this ordinance except that persons of the member’s immediate family, including but not limited to grandparents, parents, spouses, and siblings, may assist the member provided the member is present when the assistance is rendered.

SECTION 4 – SPECIFIC HARVEST REGULATIONS

23.401 Conifer Boughs.

No member shall:

- (1) Cut down a tree for the purpose of gathering conifer boughs;
- (2) Remove boughs from the upper half of a tree; or
- (3) Gather for subsequent sale northern white cedar or hemlock boughs.

23.402 Princess Pine.

No member shall gather for subsequent sale any *Lycopodium* species except *Lycopodium obscurum*, *Lycopodium dendroidium*, or *Lycopodium hickeyi*.

23.403 Firewood.

(1) No member shall cut any tree for firewood unless the tree is included within an area designated by a Signatory Tribe for firewood gathering. Members may only cut and gather trees that are either dead or down for firewood. The Signatory Tribes and Forest Service shall annually identify those portions of the National Forest that will be open to firewood gathering and shall make maps of those areas available to members including identification of any special restrictions or conditions that may apply to particular locations.

(2) No member shall use a farm tractor, rubber tired skidder, or similar vehicle for gathering firewood except as may be authorized by applicable Forest Plans or in accordance with permits issued by the Tribe pursuant to procedures agreed to by the Tribe and Forest Service.

(3) The Tribes will adopt such additional regulations as may be necessary to regulate and issue permits to Tribal members for the gathering of firewood, including regulations necessary to address restrictions in areas that are subject to active timber sales or emergency closures, or as may be necessary to protect wildlife or other natural resources.

23.404 Ginseng.

(1) No member shall gather ginseng for any purpose between November 1 through August 31.

23.405 Maple Sap/Sugarbushes.

(1) No member shall gather maple sap without a sugarbush site permit valid for a designated tribal sugarbush or for such other location approved by the tribal conservation department in consultation with the Forest Service.

(2) The tribal conservation department may issue a sugarbush site permit to one or more members and may impose such terms and conditions as it deems necessary or appropriate.

(3) No member shall fail to comply with the terms and conditions of a sugarbush site permit.

23.406 Harvest of Trees and Timber.

(1) Harvest for Sale as “Lumber” or Similar Wood Products. (a) No member shall under authority of this ordinance cut down any tree or gather any timber for the purposes of selling all or part of it, or any product derived from its wood, without a permit issued pursuant to subs. (3).

(2) Harvest of Tree with Commercial Value No member or tribal entity shall cut down any tree with commercial value or gather any timber under authority of this ordinance without a permit issued pursuant to subs. (3).

(3) Permit to Harvest of Tree or Gather Timber. A Signatory Tribe's conservation department is authorized to issue permits authorizing members or tribal entities to harvest trees or gather timber located on National Forest system lands under this section on such terms and conditions as it deems necessary and appropriate. The availability of permits for the harvest of trees or gathering of timber shall be on such terms and conditions as may be agreed to by the Forest Service and one (1) or more signatory Tribe.

(4) For the purposes of this section, "tribal entity" means an agency, business, partnership, corporation, committee, body or other entity, and the officers, employees and agents thereof, that is chartered, directed, controlled, or majority owned by the Tribe.

(5) No member shall fail to comply with the terms and conditions of a permit issued pursuant to this section.

23.407 Construction of Structures on National Forest Lands.

(1) Definition of Structure. For the purposes of this section, the terms "structure" means a building or other structure such as longhouses or sweat lodges used in connection with ceremonies, or structures such as hunting blinds, fish houses or sugarbush shacks, that are used in the exercise of treaty-reserved hunting, fishing or gathering rights.

(2) Permits for Structures; Identification.

(a) Permits. A Signatory Tribe's conservation department, after first consulting with the Forest Service, is authorized to issue permits authorizing members or tribal entities to locate structures which contain any of the attributes described in subs. (3)-(5) on National Forest lands under this section on such terms and conditions as it deems necessary and appropriate. Tribal members and entities may locate structures which do not contain any one (1) of the attributes described in subs. (3)-(5) on National Forest lands without a permit unless required by the appropriate Signatory Tribe.

(b) Identification Marks Required. All structures located on National Forest lands by members or tribal entities, including those structures not requiring a permit, shall be required to have some identification which permits appropriate conservation wardens or law enforcement personnel to determine the name, address and tribal affiliation of the person who constructed the structure.

(3) Use of Non-Native Material. No member or tribal entity shall construct any structure on National Forest system lands under authority of this ordinance, which is constructed from non-native, processed materials such as dimensional lumber, plywood, siding or roofing without

a permit issued pursuant to subs. (2).

(4) Maintenance of Structures for Over 90 Days. No member or tribal entity shall maintain any structure, or any non-native materials used in the construction of any structure, on National Forest system lands under authority of this ordinance for more than ninety (90) consecutive days without a permit issued under subs. (2).

(5) Structures Larger Than 20 Square Feet. No member or tribal entity shall construct any structure on National Forest lands under authority of this ordinance which occupies more than twenty (20) square feet (i.e. 4 ft. x5 ft.) without a permit issued pursuant to subs. (2).

(6) It is the member or entity's responsibility to verify that the intended structure to be constructed is not prohibited by this ordinance or is exempt from permit requirements. Any uncertainty should be resolved by contacting the tribal conservation department or the Chippewa-Ottawa Resource Authority.

(7) No member shall fail to comply with the terms and conditions of a permit issued pursuant to this section.

SECTION 5 – USE OF CAMPGROUNDS; USE OF VEHICLES.

23.501. Use of Campgrounds.

Tribal members may camp at certain National Forest campgrounds without being required to pay camping fees and may be eligible to waiver of length of stay limitations that would otherwise apply to certain National Forest campgrounds during specific times of the year. In some cases, Tribal members may receive permission to camp in National Forest campgrounds during seasons or periods that those campgrounds are otherwise “closed” to public use. The following sections detail the procedures which Tribal members must follow to receiving waivers from fees, length of stay restrictions and closed campground provisions and regulations governing the use of those campgrounds. For a list of National Forest Campgrounds to which Tribal members may obtain permits entitling them to for exemptions from fees, length of stay limitations or closures please contact your Natural Resource Department or local U.S. Forest Service Office.

23.502. Terms.

(1) Fee-Exempt Campgrounds. Those campgrounds where tribal members may camp for no charge.

(2) Length of Stay Limitation Campgrounds. Those campgrounds where tribal members may not continuously camp for longer than the specific period indicated.

(3) Campgrounds “Closed” to Camping Outside of the Annual Operating Season- Those campgrounds that are closed to tribal member camping during the specified period,

except pursuant to and in conjunction with a permit issued by a Member Tribe's Natural Resource Department.

23.503. Procedures.

Procedures for Using Fee-Exempt Campground Sites. In order to use any campsite within a fee exempt campground, a tribal member must:

- (1) Must obtain a campground fee exemption form from their applicable Natural Resource Department. The campground fee exemption form must be obtained prior to camping or attempting to camp. Said forms will not be available at USFS campgrounds.
- (2) Following the registration procedures and completing the paperwork generally used for the site and in lieu of fee payment, providing to campground compliance personnel and/or placing in a campsite fee envelope the issued valid campground fee exemption form.
- (3) Camp only at a site for which he or she has registered.

23.504. Reserving a Fee Exempt Campsite.

Tribal members may use the Forest Service's national system for reserving particular fee-exempt campsites available through those systems, but tribal members will still have to pay any camping and/or reservation fee that is collected as a condition for making the reservation. However, for campsites which are not included in the national reservation system, where there is a need, including the demonstrated inability to obtain campsites on a first-come, first-served basis, a tribal member may contact their Natural Resource Department, or Natural Resource Commission. The Natural Resource Department or Commission, may then ask the local Forest Service District to reserve a site for the member.

23.505. Interference With Other Campers.

No member shall interfere with or displace any person who is camping or who has a reservation to camp at a National Forest campsite.

23.506. Failure to Pay Non-Exempt Camping Fees.

No member shall fail to pay any fee for camping for which the MOU, Exemption Agreement or Implementation Plan do not provide an exemption.

23.507. General Regulations and Requirements.

While exercising the Tribe's ceded territory rights in a National Forest, the following are prohibited:

(a) Interfering With an Enforcement Officer or Official. Threatening, resisting, intimidating, interfering with or giving false or fraudulent information to any Forest Service or Tribal enforcement officer, employee, official, representative or agent engaged in the performance of their duties.

(b) Disorderly Conduct. Conduct or actions that constitute:

(i) Engaging in fighting.

(ii) Addressing any offensive or derisive or annoying communication to any other person who is lawfully present when such communication has a direct tendency to cause acts of violence by the person to whom the remark is addressed.

(iii) Making statements or other actions directed toward inciting or producing imminent lawless action and likely to incite or produce such action.

(iv) Causing public inconvenience, annoyance, or alarm by making unreasonably loud noise.

(c) Fire.

(i) Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire.

(ii) Firing any tracer bullet or incendiary ammunition.

(iii) Leaving a campfire without completely extinguishing it.

(iv) Allowing a fire to escape from control.

(v) Building, attending, maintaining, or using a campfire without removing all flammable material from around the campfire adequate to prevent its escape.

(vi) Building, attending, maintaining, or using a fire outside of a fire ring provided by the Forest Service for such purpose or outside of a stove, grill or fireplace when using a developed Forest Service recreation site.

(vii) Violating any Forest Service imposed fire ban or other restrictions on the possession or use of items that may cause fire in areas where a fire ban has been imposed.

(d) Property.

(i) Damaging or removing any natural feature or other property of the United States.

(ii) Entering any building, structure, or enclosed area owned or controlled by the United States when such building, structure, or enclosed area is not open to the public.

(e) Occupancy and Use.

(i) Discharging a firearm, bow or crossbow in or within 150 yards of a residence, building, campsite, developed Forest Service recreation site, or cave.

(ii) Abandoning any personal property.

(iii) Placing a vehicle or other object in such a manner that it is an impediment or hazard to the safety of any person.

(iv) Operating or using any device which produces noise, such as a radio, television, musical instrument, motor, engine or public address system (portable

or vehicle mounted) in such a manner and at such a time so as to unreasonably disturb any person.

(v) Failing to stop a vehicle when directed to do so by a properly identified Forest Service or Tribal employee or officer.

(vi) Failing to pay any fee or other charge for which the MOU or harvest regulations do not provide exemptions.

(vii) Discharging or igniting a firecracker, rocket or other firework, or explosive into or within any cave.

(viii) Discharging or igniting a firecracker, rocket or other firework, or explosive while at any developed Forest Service recreation site.

(ix) Cleaning or washing any personal property, fish, animal, or food, or bathing or washing at a hydrant or water faucet not provided for that purpose.

(x) Occupying between 10 p.m. and 6 a.m. a place clearly posted for day use only.

(xi) Failing to remove camping equipment or personal property when vacating the area or site.

(xii) Placing, maintaining, or using camping equipment except in a place specifically designated or provided for such equipment.

(xiii) Without permission from a campground official, failing to have at least one person occupy a camping area during the first night after camping equipment has been set up.

(xiv) Leaving camping equipment unattended for more than 24 hours without permission of a campground official.

(xv) Bringing in or possessing an animal, other than a seeing eye dog, unless it is crated, caged, or upon a leash not longer than six feet, or otherwise under physical restrictive control.

(xvi) Bringing in or possessing in a swimming area an animal, other than a seeing eye dog.

(xvi) Operating or parking a motor vehicle or trailer except in places developed or designated for this purpose.

(xvii) Operating a bicycle, motorbike, or motorcycle on a trail unless designated for this use.

(xviii) Operating a motorbike, motorcycle, or other motor vehicle for any purpose other than entering or leaving the site.

(xix) Depositing any body waste except into receptacles provided for that purpose.

(xx) Entering, using or camping in an area without permission that has been posted as closed either generally or as to specific dates or times where a fire ban has been imposed.

(xxi) Occupying a site with prohibited camping equipment.

(xxii) Using a campsite or other area by more than the number of users or vehicles allowed.

(xxiii) Being publicly nude.

(xxiv) Discharging a firearm, air rifle, or gas gun when prohibited.

(xxv) Being in an area between 10 p.m. and 6 a.m. unless camping or visiting a

person who is camping.

(xxvi) Possessing or storing any food or refuse in violation of posted instructions.

(f) Sanitation.

(i) Depositing in any toilet, toilet vault, or plumbing fixture any substance which could damage or interfere with the operation or maintenance of the fixture.

(ii) Possessing or leaving refuse, debris, or litter in an exposed or unsanitary condition.

(iii) Placing in or near a stream, lake, or other water any substance which does or may pollute the water.

(iv) Failing to dispose of all garbage, including any paper, can, bottle, sewage, waste water or material, or rubbish either by removal from the site or area, or by depositing it into receptacles or at places provided for such purposes.

23.508. Vehicle Use.

The following is prohibited while operating any vehicle within a National Forest while exercising treaty harvest rights.

(a) Operating any vehicle off any public road within a National Forest except for off-highway vehicles on designated trails, routes or areas in accordance with applicable regulations or may be authorized by applicable Forest Plans or special permits agreed to by the Tribe and Forest Service.

(b) Carelessly, recklessly or without regard for the safety of any person, or in a manner that endangers, or is likely to endanger, any person or property.

(c) In a manner which damages or unreasonably disturbs the land, wildlife or vegetative resources.

(d) Using a campsite or other area by more than the number of users or vehicles allowed.

(e) Parking or leaving a vehicle in violation of posted instructions.

(f) Placing a vehicle or other object in such a manner that it is an impediment or hazard to the safety of any person.

SECTION 6 -- ENFORCEMENT

23.601 Enforcement by Deputized Conservation Wardens and Issuance of Citations.

(1) Any provision of this ordinance may be enforced by any Signatory Tribe's conservation wardens or other Tribal law enforcement officers as authorized by Tribal law and by Forest Service law enforcement officers authorized under 16 U.S.C. §559.

(2) Such Tribal wardens and Tribal law enforcement officers may issue a citation on a form approved by the Tribe or tribal court to any person whose conduct is regulated by the provisions of this ordinance upon reasonable belief that such person has violated or breached a provision of this ordinance.

23.602 Search and Seizure; When Authorized.

Tribal conservation wardens, Tribal law enforcement officers, and properly identified Forest Service law enforcement officers are empowered to:

(1) Conduct a search of an object, place or person whose conduct is regulated by the provisions of this ordinance, and may seize things when the search is made:

(a) with consent;

(b) pursuant to a valid search warrant;

(c) with the authority and within the scope of a right of lawful inspection as provided in this section;

(d) incident to the issuance of a lawfully issued citation under this ordinance; or

(e) as otherwise authorized by law or by the provisions of this ordinance;

(2) Conduct routine inspections, in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities, of vessels, boats, wagons, trailers, automobiles, snowmobiles, off-highway vehicles, containers, packages, and other receptacles contained therein, utilized by a person in a harvest activity authorized by this ordinance and of record of commercial transactions required under this ordinance with have not yet been forwarded to the tribal conservation department;

(3) Execute and serve warrants and other process issued by the Tribal Court in accordance with applicable law;

(4) Stop any automobile or other vehicle as part of a lawful inspection authorized by this section or if the person reasonably suspects there is a violation or breach of this ordinance;

(5) With or without a warrant, open, enter and examine vessels, boats, wagons, trailers, automobile, vehicles, snowmobiles, off-highway vehicles, and packages and other receptacles contained therein, in which the person has probable cause to believe that contraband wild plants, may be contained or pursuant to a lawful inspection authorized by this section;

(6) Seize and hold, subject to order of the Tribal Court, any property incorporated into or located in, any structure belonging to a member or tribal entity which is located on National Forest lands in violation of section 4.07; and

(7) Seize and hold subject to the order of the Tribal Court any alleged contraband or property which such person reasonably believes may be needed as evidence in connection with the institution of proceedings in tribal court or any property otherwise authorized to be seized by

the provisions of this ordinance.

23.603 Seized Items.

Any wild plant, or other property, which is seized in connection with cases referred to Tribal Court for prosecution shall be turned over to the Tribe. No seized wild plant shall be returned by the Tribal Court or tribal officials to a convicted violator, his or her immediate family or other member of the gathering party.

23.604 Penalties.

Any person who, for himself or herself, or by his or her agent, servant or employee, or as an agent, servant or employee of another, violates this ordinance, shall be liable as follows:

- (1) For any violation, a civil remedial forfeiture of not more than \$5000.00;
- (2) For any violation, a revocation or suspension of National Forest gathering privileges for a period of time within the discretion of the Tribal Court;
- (3) For any violation, the court may order a natural resources assessment not to exceed 75% of the amount of the civil remedial forfeiture; and
- (4) For any violation, appropriate court costs within the discretion of the Tribal Court.

23.605 Civil Damages.

(1) In addition to any other penalty allowed by this ordinance, the Tribal Court may award to the Tribe or, in addition to an action to impose penalties, the Tribe may bring a civil action for recovery of, damages against any person unlawfully gathering, unlawfully locating a structure on National Forest lands, or having unlawfully in possession any wild plant taken from a National Forest. The sum assessed for damages for each wild plant shall not be less than the amount stated in this section:

- (a) Any endangered or threatened species protected under this ordinance, \$875.00.
- (b) Any wild plant for which a fair market value can be established, the fair market value.
- (c) Any other wild plant, \$17.50.

(2) Where the Forest Service or another person or entity has sustained damages as a result of unlawful harvest, the court may, with the consent of the Tribe, award all or part of any civil damages obtained pursuant to this section to the Forest Service or to such person or entity.

23.606 Enhancement of Forfeiture and Penalties.

Upon conviction of any member for a violation of this ordinance when such person has been convicted of a previous violation of this ordinance within a period of one year, the court may enhance any civil remedial forfeiture or other penalty as the Tribal Court deems appropriate.

23.607 Collection of Money Penalties.

Enforcement of the money penalties imposed pursuant to this ordinance may be had through the collection of penalties from funds of the violator held by the Tribe, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

23.608 Parties to a Violation.

(1) Whoever is concerned in the commission of a violation of this ordinance shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

(a) directly commits the violation;

(b) aids or abets the commission of it; or

(c) is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.

23.609 Harvesting After Revocation or Suspension.

No person whose National Forest wild plant gathering privileges have been revoked or suspended pursuant to Section 6.04(2), shall gather any wild plant in a National Forest, the harvest of which is regulated by this ordinance, during such revocation or suspension.

23.610 Schedule of Money Penalties; No Contest.

The Tribe's regulatory body may adopt a schedule of forfeitures to be imposed by the court upon the receipt of an admission that a violation of this ordinance has occurred, or a plea of not contest, which may be done either in person or in writing. This schedule shall not bind the Tribal Court as to forfeitures assessed by the court after adjudicating a violation where the defendant has entered a plea of not guilty.

23.611 Hearings in Tribal Court.

The Tribal Court shall adjudicate all matters arising under this ordinance pursuant to the provisions of the Tribal Court's Rules of Procedures as appropriate.

23.612 Members of Other Tribes, Tribal Court Adjudications.

The tribal court is authorized to adjudicate alleged violations by any member of a Signatory tribe of any National Forest gathering code of that Tribe provided:

- (1) The relevant provisions of such ordinance are in essential conformance with the parallel provisions of this ordinance; and
- (2) The other Tribe has authorized the adjudication.