

Sisseton-Wahpeton Oyate Tribe
Chapter 16
Fish and Wildlife Code

Subchapter 1
General Provisions

16-01-01. Policy and Intent

Sections 16-01-03 through 16-01-06 shall be and are hereby established as the policy and intent of the Sisseton-Wahpeton Oyate Tribal Council.

16-01-02. To provide an adequate and flexible system for the protection and conservation of all fish and wildlife resources and their habitats on Reservation lands of the Lake Traverse Reservation of the Sisseton-Wahpeton Oyate Tribe.

16-01-03. To provide for the establishment of a Natural Resources Commission to recommend rules and regulations relating to the harvest of fish, wildlife and plants on lands/waters of the Lake Traverse Reservation of the Sisseton-Wahpeton Oyate Tribe

16-01-04. To provide for the general management and supervision of all fish and wildlife activities on Reservation lands of the Lake Traverse Reservation of the Sisseton-Wahpeton Oyate Tribe.

16-01-05. To provide for the establishment of the license requirement and of prohibited acts and penalties in regard to fish and wildlife activities on Reservation lands of the Lake Traverse Reservation of the Sisseton-Wahpeton Oyate Tribe

16-02-01. General Provisions

Sovereign rights of Tribe in resident fish and wildlife and plant populations. All fish and wildlife occurring on Reservation lands are the property of the Sisseton-Wahpeton Oyate Tribe and will be managed for the overall benefits to the Tribe.

Jurisdiction

16-03-01. All matters contained herein relating to the propagation, conservation, management, distribution, transportation, storage, and taking of fish and wildlife, or relating to fishing, hunting, trapping, sale, barter and exchange of fish and wildlife from local resources on all Reservation lands and water within the boundaries of the former Lake Traverse Reservation, and other outdoor recreational activities occurring on such lands and waters, are all subject to the absolute jurisdiction of the Sisseton-Wahpeton Oyate Tribe.

16-03-02. The Tribe shall have criminal jurisdiction over non-members of the Tribe who expressly consent thereto as a condition for obtaining any license to hunt, fish or

trap within the territorial jurisdiction of the Tribe. Any person who is not a member of the Tribe and who refuses to provide express consent to the criminal jurisdiction of the Tribe as a condition for obtaining any license to hunt, fish or trap shall not be issued a license to hunt, fish or trap.

16-03-03. Interference with exclusive Tribal jurisdiction and noncompliance with code; Tribal right of action
In addition to any criminal action or proceeding that may be maintained by the Tribe for a violation of this Chapter or Chapter 24, the Tribe, for purposes of enforcing the provisions of this Chapter, shall have the right to maintain in Tribal Court, or in a court established pursuant to the Code of Federal Regulations, any civil cause of action necessary to prevent interference, by Indians or non Indians or by the State of South Dakota and North Dakota and its agents or employees, with the jurisdiction of the Tribe over all matters covered under this Chapter, including any action that may be necessary to enforce compliance with this Chapter and the rules and regulations promulgated pursuant thereto. In any such civil action, the Tribe may seek declaratory and, where appropriate, punitive, and such other relief as may be deemed necessary to prevent continues interference with the Tribe's jurisdiction.

16-03-04. The Tribal Court, or a court established pursuant to the Code of Federal Regulations, as the case may be, shall have jurisdiction over any civil action brought by the Tribe pursuant to this Chapter for alleged interference with the jurisdiction of the Tribe and over any action brought to enforce compliance with this Chapter and the rules and regulations promulgated pursuant thereto.

16-04-01 Definitions: Interpretation

The following terms and definitions shall be used in Chapter 16 and shall have the meaning so ascribed to them in this section unless a different meaning clearly appears from the context.

16-04-02 All-Terrain Vehicle – means any motorized vehicle designed for or capable of travel over unimproved terrain

16-04-03 Antlered – means any male animal with a visible antler at four inches above the head.

16-04-04 Antlerless – means any animal not classified as antlered as defined in 16-04-03 above.

16-04-05 Bag limit – means the maximum number of wildlife species which may be legally taken per day and shall include the maximum number of each species by sex.

16-04-06 Bait – means any substance that is placed, exposed, deposited, or distributed by any person and which may serve as an attraction to any wildlife, and may include by is not limited to grain, salt, feed, or animal remains.

- 16-04-07 Bait fish – means any fish or minnow which is used for angling or the capture or taking of fish.
- 16-04-08 Baiting – means the act of putting out, scattering or in other ways distributing bait for the purposes of attracting and taking any species of wildlife or fish
- 16-04-09 Big game – shall be defined as: Antelope, Elk, Moose, Mule deer, Turkey, Mountain Lion, Wolf, buffalo, and Whitetail deer. For which the Commission has established harvest seasons.
- 16-04-10 Big game tag – means any tag issued with a big game permit which must be attached around the hock of the big game animal at the time it is taken.
- 16-04-11 Carcass – means the dead body of any wild animal to which it refers including the head, hair, skin, plumage, skeleton or any other parts thereof.
- 16-04-12 Closed area – means any area where hunting, fishing, gathering or trapping is prohibited by law and to which access or any other activities may not be allowed as indicated by signs so stating and located in conspicuous places along access routes.
- 16-04-13 Closed season – means any time during a calendar year when hunting, fishing or trapping is prohibited by authority of the Commission.
- 16-04-14 Creel limit – means the maximum number of any species of fish which may be legally taken per day.
- 16-04-15 Commission – The Sisseton-Wahpeton Oyate Tribe establishes a Natural Resource Commission...
- 16-04-16 Department – Sisseton-Wahpeton Oyate Tribe’s Fish and Wildlife Department
- 16-04-17 Endangered species – means any species of wildlife, fish or plants classified as endangered species by the Tribe or as defined in the Endangered Species Act of 1973 or any regulations promulgated pursuant thereto, including any amendments to such law or regulations as, from time to time, any be adopted.
- 16-04-18 Firearm – means any handgun, rifle or shotgun.
- 16-04-19 Furbearer – means animals that are taken primarily for sale or their pelts.
- 16-04-20 Game – means all wild animals and birds for which the Commission has established a hunting season.
- 16-04-21 Game birds – any upland birds, migratory birds, or waterfowl

- 16-04-22 Game fish – means all species belonging to the: Black bass, Bluegill, bullhead, Catfish, Crappie, Perch, Pike, Salmon, Sauger, Sunfish, Trout, and Walleye families of fish species.
- 16-04-23 Hunt/Trap – means any effort to kill, injure, capture or disturb any wild animal
- 16-04-24 High-grading: means when an individual exchanges fish that have been held in a livewell, on a stringer or in other fish holding/storage devices with one that has just been caught.
- 16-04-25 Hunter Orange – is a fluorescent orange color that is highly visible.
- 16-04-26 Indian non-member – means an Indian enrolled in another Indian Tribe
- 16-04-27 Judicial revocation – means loss of license for specific period of time.
- 16-04-28 License – means the primary document issued by authority of the Sisseton-Wahpeton Oyate Tribe that grants authority to engage in activities covered by the provisions of this Chapter.
- 16-04-29 Live bait – means any baitfish, amphibian or other live animal used for angling.
- 16-04-30 Loaded firearm – means any firearm containing cartridges in the chamber, clip or magazine
- 16-04-31 Migratory Bird - means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in 50 Code of Federal Regulations (CFR) § 10.13, or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof.
- 16-04-32 Motor vehicle – means a motorized vehicle which may travel on land, water, snow, or air
- 16-04-33 Non-Indian – means other than defined in 16-04-26 and 16-04-56.
- 16-04-34 Officer – means a Conservation Officer of the Sisseton-Wahpeton Oyate Tribes' Fish and Wildlife Department or any other Law Enforcement Officer of the Bureau of Indian Affairs or Sisseton-Wahpeton Oyate Tribe.
- 16-04-35 Open season – means any time during a calendar year when hunting, fishing or trapping is lawful by authority of the Commission.
- 16-04-36 Plants-Means any plants that are used for medicinal or cultural purposes.

- 16-04-37 Possession – means physical possession or control of anything which may be the subject property on one’s person, premises, motor vehicles, or public or private place of processing or storage.
- 16-04-38 Possession limit – means the maximum number of game species that may be possessed.
- 16-04-39 Predator – means animals that kill and eat the flesh of other animals.
- 16-04-40 Protected species – means any fish or wildlife species that is not either endangered, or a species of tribal concern, or an unprotected species.
- 16-04-41 Recreational vehicle – means any snowmobile, all terrain or other vehicles used to engage in off-highway recreational use.
- 16-04-42 Reservation – means all Indian Country, as the term is defined in 18 USC § 1151, within the former exterior boundaries of the Lake Traverse Indian Reservation including, but not limited to, Tribal allotted, Tribal fee land, individual tribal member owned fee land and Trust lands and the waters appurtenant thereto, within Roberts, Marshall, Day, Grant, and Codington Counties of South Dakota and within Sargent and Richland Counties in North Dakota, and all other lands and waters whereon or wherein the Tribal or its members have the right to hunt, fish, trap or gather pursuant to the Treaty of February 19, 1867, 15 Stat. 505, or other applicable Federal law.
- 16-04-43 Reservation land – is Tribal and Indian owned lands, whether held in trust or not within the former Lake Traverse Reservation.
- 16-04-44 Rough fish – means any and all fish species, not included in the game fish families and specifically includes, but it not limited to: Buffalo, Carp, Carpsuckers, Drum, and Suckers.
- 16-04-45 Sell – means to offer or possess for sale, barter, exchange or trade or the act of selling, bartering, exchanging or trading.
- 16-04-46 Small game – shall be defined as all: Rabbits, Squirrels, and Woodchucks. Commission.
- 16-04-47 Snagging – means the use of a hook or hooks and line, with or without a pole, to impale or attempt to impale fish in a manner other than by natural feeding behavior by fish.
- 16-04-48 Snowmobile – means any motorized vehicle designed for travel on snow and/or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressured tires.

- 16-04-49 Species of Tribal Concern – means all species of wildlife and fish which may be extinct or found in very low numbers within the Reservation as listed by the Commission.
- 16-04-50 Specified areas – means areas where the taking of game animals is restricted to the specifications set forth by rules and regulations promulgated by the Commission.
- 16-04-51 State – means a recognized state of the United States.
- 16-04-52 Tag – means a card, label or other identification device issued for attachment to the carcass of any game animal.
- 16-04-53 Take – means to fish, angle, hunt, pursue, catch, capture, gather, seine, trap, kill or otherwise possess any wildlife or any attempt to commit any of these acts.
- 16-04-54 Transportation – means to ship, convey, carry, move, or transport by any means and deliver or receive for such shipment, conveyance, carriage, or transportation
- 16-04-55 Tribal court – means the Sisseton-Wahpeton Oyate Tribal or in the absence thereof, any court established under the Codes of Federal Regulations
- 16-04-56 Tribal member – means a person who is an enrolled member of the Sisseton-Wahpeton Oyate Tribe.
- 16-04-57 Tribe – means Sisseton-Wahpeton Oyate Tribe.
- 16-04-58 Trot line – means any line used for fishing with one or more hooks which is not used with a conventional rod and reel and is left unattended which shall include y not be limited to the terms throw line, set line, limb line or jug line.
- 16-04-59 Unprotected species – means those species of birds an animals which are not protected under the provision of this Chapter, and for which year round hunting is allowed, including by not limited to the following: , European starlings, Flicker tail gophers, pigeons, pocket gophers, ground squirrels, , , skunks – all species.
- 16-04-60 Upland game bird – means pheasants, partridges, grouse and mourning doves.
- 16-04-61 Wanton waste of fish, wildlife and plants – means:
- a. No person who takes any fish, wildlife shall 7abandon intentionally, or needlessly allow going to waste, any portion thereof. The failure of any person to properly dress and care for any fish or wildlife species taken or killed by that person, and if the carcass is reasonably accessible, the failure to take or transport the carcass to the residence of that person, or place for

- proper storage, and there properly care for the carcass within forty-eight (48) hours after taking or killing is prima facie evidence of a violation, or
- b. No person shall abandon edible portions of fish or wildlife at a meat processing plant. The leaving of edible portions of fish or wildlife at a processing plant of more than ninety (90) days shall be considered prima facie evidence of a violation. The owner(s) or operator(s) in charge of any meat processing plant shall report the violation the Tribal Fish and Wildlife Department.

- 16-04-62 Waterfowl – shall include, but not be limited to all varieties of: Brant, Coot, Ducks, Geese, Rail, and Swans.
- 16-04-63 Wildlife – means any form of animal life generally living wild in a state of nature, endowed with sensation and power of voluntary motion, including all wildlife animals, birds, fish, reptiles, amphibian and their eggs, net, and spawn.
- 16-04-64 Youth – means any person under the age of sixteen (16).

Subchapter 2 Regulation and Enforcement

16-05-01 Regulation and Enforcement

Based on the recommendations of the Tribes F&W Department and the Commission, from time to time, the Tribal council may promulgate regulations that, without limiting the general powers herein conferred, shall include Sections 16-06-03 through 16-06-08.

- 16-05-02 Fixing, shortening, extending or closing seasons with respect to any species of wildlife in any specific locality after investigation and upon a determination that such action is necessary either to assure maintenance of an adequate supply thereof, to regulate taking or to effectuate proper wildlife management and control.
- 16-05-03 Regulating and prescribing the means by which wildlife may be taken or protected as may be best to perpetuate, restore, increase or control any species of wildlife and assure an adequate supply thereof, and regulating the transportation and storage of all wildlife or parts thereof throughout the Reservation lands.
- 16-05-04 Establishing or changing daily limits and/or possession limits on the taking or possession of fish and wildlife.
- 16-05-05 Prescribing the types of or kinds of bait, lure, tackle, equipment, traps, firearms and weapons, the tagging of wildlife or fish or parts thereof or any means or devices for taking of such wildlife.
- 16-05-06 Establishing methods for checking compliance by hunters, anglers, or trappers with this chapter or any rules or regulations promulgated pursuant thereto.

- 16-05-07 Prescribing safety and fire control measure and other regulations as may be deemed necessary in the interest of range, wildlife, fish or forbearing animal management.
- 16-05-08 Establishing fees and license cost for hunting, fishing and trapping seasons and boating licenses.
- 16-05-09 Enforcement procedures/Duties of officers
It shall be the duty of every Tribal Conservation Officer and Tribal Law Enforcement Officer to enforce this Chapter and any rules and regulations relating to hunting, fishing, trapping and all other regulations which may relate to activities governed by this Chapter and such officers may issue citations and/or make arrests and bring before the Trial Court or in absence thereof, an court established under the Code of Federal Regulations, any persons violating any provisions of this Chapter or any of the rules or regulations adopted pursuant thereto.
- 16-05-10 Inspection
- 16-05-11 Search
Any officer described in Section 16-04-34 may search any conveyance, vehicle, game bag, game basket, game boat, any receptacle, and package, box, hunting camp or similar place, without warrant upon probable cause to believe that an offense in violation of this chapter the object of which he has reason to believe constitutes evidence of a violation of this chapter or any rule or regulation adopted thereunder. This section shall not apply to any dwelling, barn, storage shed, or other non moveable structure.
- 16-05-12 Authority to Enter Reservation land
Any officer described in Section 16-04-34 in the course of his duty may enter upon any Reservation lands and remain thereon while performing such duties, and such actions by such officers shall not constitute trespass.
- 16-05-13 Seizure
Any officer described in Section 16-04-34 may, upon probable causes, seize without warrant:
- a. All wildlife and fish or parts thereof taken, killed, transported or possessed contrary to the provisions of this Chapter or any rules or regulations promulgated pursuant thereto, and
 - b. Any gun, trap, net, decoy, light or those devices including motor vehicles unlawfully used in hunting, fishing, or trapping, or held with the intent to unlawfully use for hunting, fishing, or trapping.

16-05-14

Civil liability to the Tribe

Any person who has illegally taken, killed or possessed any species of fish or wildlife shall be liable for civil fine. The fine to be paid to the Department shall be as follows:

Big Game	Males	Females
Antelope	\$200	\$300
Buffalo	\$5000	\$2500
Deer	\$200	\$300
Elk	\$2000	\$1500
Moose	\$2000	\$1500
Turkey	\$100	\$100
Mountain Lion	\$5000	\$5000
Wolf	\$5000	\$5000
Small game		
Rabbits	\$40	\$40
Squirrels	\$40	\$40
Woodchucks	\$40	\$40
Upland birds		
Hungarian Partridge	\$50	\$50
Mourning dove	\$40	\$40
Pheasants	\$50	\$50
Grouse	\$50	\$50
Predators		
Coyote	\$75	\$75
Fox	\$75	\$75
Furbearers		
Badger	\$40	\$75
Beaver	\$200	\$250
Bobcat	\$200	\$250
Mink	\$200	\$250
Muskrat	\$15	\$75
Raccoon	\$40	\$75
Weasel	\$15	\$75
Fish – The civil fine for all fish taken over the lawfully prescribed taking limit shall be per fish.	1 to 3 over limit \$25.00 ea. 4 or more over limit \$50 ea.	1 to 3 over limit \$25.00 ea. 4 or more over limit \$50 ea.

Waterfowl - The civil fine for all waterfowl taken over the lawfully prescribed taking limit shall be per bird. 50 \$50

Nongame or Protected animal 25 \$25

Plants
\$10/oz

16-05-14 Harassment
No one may intentionally interfere with another person lawfully engaged in taking or attempting to take wildlife or fish or engage in any activity intended to harass or prevent the lawful taking of wildlife or fish or engage in any activity intended to scare or disturb wildlife or fish with specific intent to prevent its lawful taking. Violation of this section is a Class C Misdemeanor under Section 16-18-01 and shall subject the offender to applicable civil penalties if the offense resulted in the death of any wildlife or fish.

Subchapter 3 General Licensing

16-05-15 General licensing, hunting, fishing and trapping provisions
The Tribe declares that all hunting and fishing and trapping seasons are closed year round for all species unless specifically opened by the action of the Commission. Hunting outside of an open season is violation of this section is a Class D Misdemeanor under Section 16-18-01

16-05-16 Only enrolled members of the Tribe may hunt, trap or fish during any season designated a Tribal season. Indian non-members and non-Indians must hunt during the regular season. The applicant shall inform the license agent of their Tribal affiliation as defined in Sections 16-05-46, 16-05-23, and 16-05-29, respectively, at the time the license is purchased. Violation of this section is a Class F Misdemeanor under Section 16-18-01

16-05-17 Any misrepresentation of Tribal affiliation as required by Section 16-05-16 shall be a Class 1 Misdemeanor under Section 16-18-01

16-05-18 The F & W Commission on a yearly basis will recommend license fees for hunting, fishing, and trapping to be approved by Tribal council..

- 16-05-19 General hunting license
The General Hunting License is required of every hunter. Hunters between the age of twelve and fifteen (12-15) years inclusive must possess a Certificate of Hunter Safety and be accompanied by a licensed adult. A hunting license shall not be issued to anyone under the age of twelve (12). Violation of this section shall carry a \$100 fine, court costs and loss of hunting privileges for one year.
- 16-05-20 Restricted Areas
No person shall hunt on Reservation lands within 660 feet of any occupied dwelling, hospital, school, or any public establishment or where livestock are present without the express written permission of owner or occupant. A violation of this section is a Class C Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-21 Hunting, Fishing, Trapping and Boating while Intoxicated
No person shall hunt, fish, trap or operate a boat while under the influence of alcohol, intoxicant or controlled substance to a degree that the person is incapable of safely using such weapon or equipment, or while a person has a blood alcohol concentration of 0.10% or more by weight of alcohol in the person's blood, breath or urine as shown by a blood test, intoxilizer test or urinalysis.. A violation of this section is a Class 1 misdemeanor under Section 16-18-01 and subject to applicable civil penalties if the offense results in the injury or death of any wildlife or fish species
- 16-05-22 No person shall lay claim to a general area within tribal or allotted lands for the sole purpose of hunting, fishing or trapping by posting or other identify marks, chasing other hunters off of said area. A violation on this section is a Class F Misdemeanor under Section 16-18-01
- 16-05-23 Resisting a Conservation officer
No person shall assault or otherwise resist or obstruct any law enforcement officer authorized to enforce the provisions of this code in the performance of duty. A violation of this section is a Class 1 Misdemeanor under Section 16-18-01.
- 16-05-24 In issuing big game hunting licenses, a preference shall be given to employees of Tribal and Federal government agencies (located in Sisseton) that provide service for members of the Tribe when there is a surplus of big game licenses.
- 16-05-25 Licenses shall be issued without charge to any Tribal member fifty-five (55) years of age or older except deer and turkey
- 16-05-26 Fee Waiver
The Fish & Wildlife Director may waive the hunting, fishing, or trapping license fee for any applicant who can prove financial inability to purchase a license. Prior

to granting any waiver, the Conservation Officer shall check with other agencies to determine whether or not the applicant qualifies for the waiver.

- 16-05-27 **Big game.**
It shall be unlawful for any person to hunt any big game animal except the person to whom a Tribal big game license has been issued, except as provided in this chapter. A violation of this section is a Class 1 Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-28 **Small game**
The small game license as provided for herein is required of every hunter who hunts small game. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-29 **Upland birds**
The upland birds license as provided herein is required of every hunter who hunts upland birds. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-30 **Furbearers**
The furbearer license as provided for herein is required of every hunter who hunts or traps for furbearers. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-31 **Waterfowl**
The waterfowl license as provided for herein is required of every hunter who hunts waterfowl. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-32 **Handicapped hunters**
Licensed hunters who are paraplegic or otherwise physically unable to walk with or without crutches, braces, or other mechanical support devices in the fields or woods may obtain a special permit from the fish and wildlife department to lawfully shoot game animals from a stationary motor vehicle. The handicapped hunter permit is only intended for use in situations where an applicant's physical or medical condition makes it impossible to walk a field while hunting as verified by a physicians certification.
- 16-05-33 **Loaded firearm in or on a vehicle/recreation vehicle**
It shall be unlawful to have any loaded firearm in a vehicle/recreation vehicle, except while sitting still and hunting from a boat. Handicapped hunters are excluded who have permission from the Fish and Wildlife Department. Violation of this section is a Class A Misdemeanor under Section 16-18-01
- 16-05-34 **Protruding guns**

Except as otherwise provided for herein it shall be unlawful for any gun or firearm to protrude from any motor vehicle or conveyance while on a highway or public road within Reservation lands. A violation of this section is a Class F Misdemeanor under Section 16-18-01

- 16-05-35 Disturbing wildlife prohibited
No person shall scare, chase, harass, disperse, rally or otherwise disturb any wildlife by means other than by legal hunting methods and in the ordinary course of hunting. A violation of this section is a Class F Misdemeanor under Section 16-18-01 .
- 16-05-36 Size of party limited
No more than twenty (20) persons shall cooperate as a group in hunting. A violation of this section is a Class F Misdemeanor under Section 16-18-01
- 16-05-37 Hunting methods restricted to shoulder guns and bows and arrows
No person shall, at any time, hunt any wildlife in any other manner than by shooting with a gun held at the shoulder, except that handguns minimum caliber of .41 may be used in the taking of big game animals, or by a bow and arrow with a draw weight of at least forty (40) pounds and a draw of twenty-eight (28) inches of draw or at the peak of draw. All crossbows or various forms thereof shall be illegal, except for handicapped hunters issued a special crossbow license. A violation of this section is a Class E Misdemeanor under Section 16-18-01
- 16-05-38 Hunter Orange
A solid hunter orange colored external article of clothing, which can include a vest, jacket or coveralls shall be required of every hunter when hunting in the field, except archery deer, Spring turkey and waterfowl hunters. A violation of this section is a Class E Misdemeanor under Section 16-18-01
- 16-05-39 Use of rifle to hunt birds prohibited
The use of rifles in the hunting of game birds is prohibited except that rifles using center fire cartridges may be used in the fall/spring hunting of wild turkeys by tribal members only Tribal members may use Rimfire cartridges larger than .22 caliber in the hunting of wild turkey. A violation of this section is a Class E Misdemeanor under Section 16-18-01
- 16-05-40 Use of artificial light or night vision in hunting prohibited
No person shall take or attempt to take any wildlife with the aid or use of artificial light or night vision except raccoon after they have been treed with the aid of dogs. A violation of this section is a Class E Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-41 Hunting from a motor vehicle prohibited
No person while in or on a motor vehicle or any conveyance attached thereto shall take wildlife or discharge any firearm at any wildlife. Unless in accordance with a

special handicap permit A violation of this section is a Class E Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-05-42 Hunting from a recreational vehicle/motor vehicle
It shall be unlawful for any person to chase, drive, harass, or hunt any wildlife with or from a recreational vehicle/motor vehicle, A violation of this section is a Class E Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-43 Aiding Hunters from a Motor Vehicle Prohibited
No person shall use a vehicle to chase or aid wildlife in the direction of others hunting, such as driving along shelter belts, draws or across CRP fields. A violation of this section is a Class E Misdemeanor under section 16-18-01 and subject to applicable civil penalties.
- 16-05-44 Possession of unlawfully taken or imported wildlife or fish
It shall be unlawful for any person, at any time, to have in his possession or under his control any wildlife or fish, or any part thereof, which has been unlawfully taken on the Reservation lands. It shall also be unlawful for any person to possess and transport onto the Reservation lands any wildlife or fish or part thereof which has been taken in violation of the laws of United States, any State or Indian Tribe. A violation of this section is a Class D Misdemeanor under Section 16-18-01. Any person found guilty of a violation of this section shall also pay a civil fine to the Tribe as specified in Section 16-05-14 of this Chapter.
- 16-05-45 Possession during closed seasons as prima facie evidence of taking during closed season.
The possession or having under control by any person of any wildlife or fish or part thereof at any time when the killing, taking or possession thereof is by the law of the Tribe declared to be unlawful shall be prima facie evidence that such taking or killing has occurred during the closed season. A violation of this section is a Class B Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-46 Inspection and counting of wildlife to be permitted by person in possession
Every person having in possession any wildlife or fish or any part thereof shall, upon the request of any person authorized to enforce the game and fish laws of the Tribe, permit the inspection and count of such wildlife or fish in his possession and any motor vehicle may be stopped for such inspection and count by any uniformed law enforcement officer. Refusal to permit such inspection or the interference with such inspection or count is a Class D Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-47 Use of Wireless Communication devices prohibited

It shall be unlawful to use Citizen Band Radios, cell phones, two-way radio, handheld two-way radio, or any other wireless means of communication while in or on a motor vehicle for the purpose of hunting big game, small game or migratory waterfowl. A violation of this section is a Class D Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-05-48 Licensing, Misrepresentation
Misrepresentation of identity, age, or residence while purchasing a Tribal license to hunt, fish or trap shall be unlawful and shall constitute fraud. Any person violating any of the provisions of this section is guilty of a Class 1 Misdemeanor under Section 16-18-01 and subject to applicable civil penalties under 16-05-14.
- 16-05-49 Transfer/Alteration of licenses
Except as provided in Section 16-05-50, Tribal licenses shall be valid only for the person whose name appears on the license. Further it shall be unlawful to alter or change in any way any Tribal license or Permit to hunt, fish or trap after being issued by the Department or its designee. A violation of this section is a Class 1 Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-50 Any member of the Tribe who purchases a big game license may designate another tribal member to hunt for them. This must be authorized by the Fish & Wildlife department and the designee must also be licensed for big game prior to the authorization. Upon authorization the designees name will be printed on the designators permit which must be in possession of the authorized hunter while hunting. A violation of this section is a class D Misdemeanor under section 16-18-01 and subject to applicable civil penalties..
- 16-05-51 Destruction of property
No person shall deface, mutilate, shoot at, tear or pull down or destroy any sign on the Reservation lands nor shall any person cut, run through, tear out, take down and leave down any fence, or leave gates open or in any way destroy gates, fences or standing cropson the Reservation lands. A violation of this section is a Class 1 Misdemeanor under Section 16-18-01 and subject to applicable civil penalties. In addition to the penalty provided for in this section, any violator may be required by the convicting court to pay for all damages resulting from such violation.
- 16-05-52 Waste prohibited
No person shall wantonly waste or destroy any of the wildlife or fish of the kinds protected by the laws of the Tribe. A violation of this section is a Class D Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-05-53 Finance of Fish and Game Department
The operations of the Department will be financed, in part, through the receipt of all revenue:
a. Taken in from hunting, fishing, and trapping licenses

- b. From any other licenses or permits issued by the Department
- c. From any civil or criminal fines for violations of this Chapter, and
- d. From any other source through which the Department directly generates revenues.

16-05-54 Judicial revocation of privileges for violation of any fish and wildlife laws
In any case where a person has violated any law or regulation pertaining to fishing, hunting or possessing fish or wildlife without a license or during closed season, the court shall revoke the person's hunting, trapping, and fishing privileges for a period of one year following such conviction and if such person is the holder of a license to hunt, trap, or fish, the court shall require such license to be forfeited to the court and the same shall be cancelled and revoked and returned to the Department.

16-05-55 Unarmed retrieval
Any licensed hunter may pursue and retrieve any wounded wildlife by proceeding unarmed directly to the wildlife for retrieval either with or without the consent of the landowner. Provided the retrieval is made on reservation lands.

16-05-56 Landowner's consent to hunting, trapping and fishing
Hunting, trapping and fishing on private lands considered Reservation lands may occur only with the permission of the landowner. Lessees of Reservation lands shall be granted no hunting, trapping and fishing privileges under their leases.

16-06-01 Big game provisions

16-06-02 Big game tagging
No big game animal shall be hunted or harvested by any other method than is prescribed in this Chapter or in any rules and regulations promulgated pursuant thereto. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-03 Baiting
It shall be unlawful to use bait of any kind to attract big game animals while hunting or to hunt or take big game using bait. It shall also be unlawful to use bait of any kind for small game and upland game birds. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-04 Evidence of Sex
After harvesting a big game animal, evidence of sex must be left attached to the carcass. Suitable evidence of sex shall include scrotum, udder, or identifiable portions of reproductive organs. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-05 Silencing

It shall be unlawful to use any mechanism to silence, muffle, or minimize the report of any firearm while hunting wildlife. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-06 Accompaniment prohibited

No big game licensee while hunting in the field during any big game season shall be accompanied by any non-licensee carrying any firearm or bow and arrow. A “non-licensee” is a person not having a big game license for the same season. Violation of this section is a Class F Misdemeanor under Section 16-18-01

16-06-07 Firearm Restrictions

A big game cartridge must contain a soft point or expanding bullet. It shall be unlawful for any person to use a shoulder held firearm that produces less than one thousand (1000) foot pounds of energy at the muzzle. Among calibers not legal are: 17 Remington, 218 Bee, .22 Hornet, .25-20,.30 Carbine, .32-20, .38-40 and the .44-40. It shall be illegal to use any auto loading firearm capable of holding more than 6 rounds. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-08 Buckshot prohibited in hunting big game

No buckshot may be used and no single shot or rifled slug weighing less than one-half (1/2) ounce may be used in hunting big game animals. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-09 Dog prohibited in hunting big game

No dog shall be used in the hunting of big game animals. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-10 Use of salt to attract big game prohibited

No person shall place any salt blocks or salt licks or construct a blind, or stand at or near any salt lick for the purpose of hunting big game animals. A violation of this section is Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-06-11 Unlawful taking, possession, sale or transportation of wildlife, fish or protected species

Any person who takes, catches, kills or has in his possession with intent to sell, sells, or causes to be conveyed, has in possession with intent to ship or convey to any point, either within or without these Reservation lands, any wildlife or fish or part thereof or protected species, in violation of any law or regulations of the Tribe, or any common carrier or agent thereof who aids or abets any person in shipping such wildlife or fish or protected species or has the same in his possession with intent to ship or convey such wildlife or fish or protected species to any with either within or without these Reservation lands contrary to law, shall

be guilty of a Class D Misdemeanor under Section 16-18-01. Any person or entity violating this section shall also be liable for a civil fine as provided under Section n16-05-14 of this Chapter.

- 16-06-12 Archery equipment restrictions
No person hunting with a bow and arrow shall use or possess explosive points, poisonous points, barbed points, or crossbows, unless otherwise excepted. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-06-13 Minimum size of bow and arrow
Big game licensees hunting with a bow and arrow shall be equipped with a bow of not less than forty (40) pounds pull at twenty-eight (28) inches of draw or at peak of draw and capable of shooting any arrow one-hundred and twenty-five (125) yards. The cutting edge of the arrow head must be of steel and be not less than seven-eighths (7/8) inches wide and not less than one and one-half (1 ½) inches long. The following devices are illegal:
- a. An arrow with a shaft shorter than twenty-six (26) inches
 - b. Explosive, poisonous, and barbed points
 - c. Crossbows, bolts, and darts
 - d. Telescopic sights and lighted sight pins
 - e. String licks or similar mechanical devices that hold a bow at draw.
- A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-06-14 Archers prohibited from possessing firearms
No person licensed in a season restricted to archery only shall possess any fire arm in the field while hunting with a bow and arrow. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-06-15 Tagging requirements for big game
No big game animal taken on the Reservation shall be transported unless the tag bearing the licensee's number for that season has been securely attached at the time the big game animal is brought into any hunting camp, dwelling, farmyard, or other place of abode of any kind occupied overnight or, in the event such big game animal is brought out to a road or trail, then before the same game is placed upon or in a vehicle of any kind; all tagging instructions printed on the tag must be followed. A violation of this section is a class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties under Section 16-05-14.
- 16-07-01 Fishing regulations.
- 16-07-02 No fishing license.

It shall be unlawful for all persons to attempt to take fish by any means without a tribal fishing license. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties. Only the Sisseton Wahpeton Oyate and tribal members may be licensed to trap bait fish for commercial purposes.

- 16-07-03 Exemption.
Youth up to the age of fifteen (15) inclusive shall be exempt from purchasing a fishing license.
- 16-07-04 Labeling and access to fishing houses.
Fish houses, shanties, and other shelters must display on the outside the name and address of the owner in letters at least two (2) inches high. The door must permit entry at all times except when locked from the outside. All such shelters must be removed from the ice by March 5th or earlier, as determined by the Commission. A violation of this section is a class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-07-05 Refuse left on ice.
It shall be unlawful for any person to deposit any form of organic or inorganic waste on the ice of any waters adjacent or over Reservation lands. A violation of this section is a Class F Misdemeanor under Section 16-18-01 penalties.
- 16-07-06 Fishing restricted to authorized methods.
It shall be unlawful to catch or attempt to catch, take or net any fish by any method, except as provided in this Chapter. A violation of this section is a Class F Misdemeanor under Section 16-18-01 penalties.
- 16-07-07 Maximum number of lines and hooks.
It shall be unlawful for any person to fish with more than four (4) lines at the same time, and no more than three (3) hooks shall be attached to the same line. Artificial lures constitute one hook, regardless of the number of hooks attached. A violation of this section is a Class G Misdemeanor under Section 16-18-01 penalties.
- 16-07-08 Fish taking: Conditions
It is legal to take certain fish, as annually specified by the Commission, by means of bow and arrow, and spear subject to the following conditions:
- a) Each bow and arrow shooter shall have in his possess a valid Tribal fishing license
 - b) The minimum weight of bows shall be twenty-five (25) pounds.
 - c) The maximum length of arrows shall be thirty-two (32) inches.

- d) Each arrow must have a barbed head.
- e) Each arrow must be shot from a bow.
- f) A line must be attached from bow to arrow.
- g) It shall be unlawful to fish using a crossbow.
- h) It shall be unlawful to take fish by any firearm.
- i) A spear shall not have less than four (4) barbed prongs.
- j) Bow and arrow, and spear fishing is permitted only during daylight hours.

Any person violating any of the provisions of this section is guilty of a Class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-07-09 Rough fish area: Restrictions
 All streams, lakes, ponds, and other waters adjacent to or over Reservation lands subject to the laws and regulations of the Tribe relative to fishing are open to the taking of certain rough fish by means of a bow and arrow, except that all water areas within a distance of one hundred (100) yards of any boat dock, swimming area, picnic area, or other place where people congregated are closed to bow and arrow fishing. A violation of this section is a Class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-07-10 Rods, lines, baited hooks.
 It is unlawful to take fish by any other means than by rods, lines and baited fishhooks, except as provided by this Chapter or any rules or regulations promulgated pursuant thereto. A violation of this section is a Class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties under Section 16-05-14.
- 16-07-11 Taking of minnows.
 It is unlawful to have and use, for the sole purpose of taking minnows for bait, a minnow seine not more than four (4) feet wide and fifteen (15) feet long with a mesh not larger than one-fourth (1/4) inch square and a glass wire minnow trap with a throat not larger than one (1) inch in diameter. Any other seine or seine device shall be unlawful. A violation of this section is a Class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties under Section 16-05-14.
- 16-07-12 Taking of bullfrogs.
 Bullfrogs may be legally taken by hand, dip-net and by hook and line. Any and all other means and methods of catching, taking and/or killing bullfrogs is

prohibited. A violation of this section is a Class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-12-01 Trapping
- 16-12-02 Trapping or furbearer license
As specified in 16-8-15, every hunter who traps furbearers on Reservation lands is required to have a Tribal Furbearer license. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-12-03 Marking traps
All traps will be marked with the owner's name and address. All traps found by the Department on Reservation lands that are not so marked will be seized.
- 16-12-04 Disturbing traps
No one shall disturb in any way another person's trap sets or harass, kill, or take animals from another person's trap set. A violation of this section is a Class A Misdemeanor under Section 16-18-01
- 16-12-05 Traps to be checked.
Traps set shall be checked at least once every forty-eight (48) hours. A violation of this section is a class E misdemeanor under section 16-18-01 and subject to applicable civil penalties.
- 16-13-06 Trap placement
No traps shall be set within two hundred (200) yards of any occupied house or dwelling, community, town, city limits, public use area, picnic area or other places where public gatherings are likely to take place. A violation of this section is a Class E Misdemeanor under Section 16-18-01 .
- 16-13-07 Trapping game animals unlawful.
It shall be unlawful to trap any small or big game animals. Only furbearers, predators, and unprotected species may be legally trapped. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and is also subject to the civil fine provisions of Section 16-05-14 of this Chapter.
- 16-13-08 Trapping protected species.
If protected species are trapped, the animal shall be left undisturbed, and the Department shall be contacted. A violation of this section is a Class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-13-09 Foothold traps.
No foothold traps with an inside diameter greater than 4 ½ inches may be place on land. No foothold traps with an inside diameter greater than 7 ½ inches may be

placed in the water.. A violation of this section is a Class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-13-10 Body grip traps
Body grip or killer-type traps with a jaw spread of 8 inches or more, as measured from the middle of the jaw, are not permitted on land. Body grip traps with a jaw spread of more than 13 inches are not permitted in the water.
- 16-13-11 Snares
Snares must have a mechanical lock, swivel devise on the anchor end, and stop devices to prohibit the restraint loop from closing to a diameter less than 2 ½ inches. Snares must be stationary and cannot be attached to a drag.
- 16-13-12 Possession of live predator and furbearers generally prohibited; Pets Excepted.
No live predator or furbearer shall be held in possession by anyone, except that one predator or furbearer may be kept as a pet under humane conditions. A violation of this section is a Class G Misdemeanor under Section 16-18-01 and is also subject to the civil fine provisions of Section 16-05-14 of this Chapter.
- 16-13-13 Physical alteration of wild predator or furbearer.
No wild predator or furbearer which is to be kept as a pet shall be physically altered in any way. This shall include declawing, defanging, descenting, spading, or any other intentional altercation. A violation of this section is a class G Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-13-14 Muskrat houses
No person may destroy a muskrat house, except that in open season a house may be opened in a manner that will not destroy or damage it as a place of habitation. A violation of this section is a class F misdemeanor under Section 16-18-01.

Subchapter 4 Migratory Birds

- 16-14-01 Migratory Birds.**
- 16-14-02 Illegal to harass migratory birds.
No person shall intentionally take or injure any migratory birds or harass any migratory bird upon its nest or remove any eggs or young.
- 16-14-03 No taking by vehicle.
- 16-14-04 No person may take migratory birds from or with the aid of a motor vehicle, conveyance attached to a motor vehicle, recreational vehicle, watercraft or aircraft, except with a Handicap license. Restrictions for watercraft use
No person shall shoot a migratory bird from a moving watercraft.

- 16-14-05 Scientific taking.
Nothing in this Chapter shall be construed to prohibit the taking of migratory birds for scientific purposes by the Tribe in accordance with Federal laws and regulations.
- 16-14-06 Firearms restrictions.
No person shall hunt migratory birds with:
- a) A shotgun larger than 10 gauge.
 - b) A shotgun capable of holding more than three (3) shells.
 - c) A shotgun using a plug of two (2) or more pieces.
 - d) A rifle of any type.
 - e) A shotgun with a barrel length of less than eighteen (18) inches.
 - f) A handgun of any type.
 - g) With shot other than steel shot, bismuth-tin, tungsten, tungsten-iron, tungsten-nickel-tin, tungsten matrix, tungsten polymer, or such shot approved as nontoxic by the U.S. Fish and Wildlife Service Director pursuant to procedures set forth in 50 CFR § 20.134.
 - h) A crossbow, swivel gun, punt gun, battery gun or machine gun.
- 16-14-06 Bait restrictions.
It is unlawful to hunt over bait other than grain crops left in the field due to normal agricultural practices. It is unlawful to use electronic calls or electronic devices of any type to lure migratory birds for any purposes.
- 16-14-07 Live decoys.
It shall be unlawful to use live decoy birds for the purpose of hunting migratory birds. If live domestic geese or ducks are or have been present in an area intended to be used for the hunting of migratory birds, they must be removed ten (10) days prior to hunting.
- 16-14-08 Permits and tags.
No person shall pursue or take any migratory birds on Reservation lands without possessing a valid Tribal license, required transportation tag, or waterfowl stamp. All individuals over the age of sixteen (16) are required to possess a Federal migratory bird hunting and conservation stamp also know as a Federal Duck Stamp.
- 16-14-09 Hunting season, bag limits and shooting hours.
The Oyate shall establish migratory bird hunting seasons and bag limits in compliance with the Migratory Bird Treaty Act. In addition to any regulations provided for pursuant to this section, all rules and regulations provided for in 50 CFR 20 (Migratory Bird Hunting) will be enforced. Except where otherwise expressly authorized, no person shall pursue, shoot, kill or attempt to take any migratory bird between sunset of one day and sunrise the next day.
- 16-14-10 Transportation.

No person shall transport any migratory bird without fully leaving a fully feathered wing or head on each carcass. Violation of this section is a Class C Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-14-11 No person shall transport birds of another without that person present or without permission from the person providing the migratory bird for transport; or without birds being properly tagged in accordance with 50 CFR § 20.36. The hunter shall sign the tag, state his address, the total number and species of birds associated with the tag, and the date such birds were killed. Violation of this section is a Class E Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-14-12 Sections 16-14-10 and 16-14-11 shall not apply to any authorized enforcement person in the course of their duties transporting and seized migratory bird(s).
- 16-14-13 Live birds.
It shall be unlawful to possess live migratory birds at any time. All migratory birds must be immediately killed once possession is gained. People who raise captive birds may maintain these birds by permit issued through a hatchery, game farm, or Tribal, State or Federal agency. Any person violating the provisions of this section is guilty of a Class A Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

Subchapter 5 Boating

- 16-15-01 **Boating regulations.**
- 16-15-02 General provisions.
No person shall operate any vessel, motorboat, watercraft, ski-jet or floating device without complying with all rules and regulations pertaining to safety and operation established by this Code.
- 16-15-03 No person shall operate any vessel, motorboat, watercraft, ski-jet or other floating device on water within the exterior boundaries of the Reservation, without possessing the requisite license, permit or registration.
- 16-15-04 Boat registration.
Any vessel, motorboat, watercraft, ski-jet or other floating device placed upon or operated within the exterior boundaries of the Reservation, shall be numbered and licensed as described by rules and regulations promulgated by the Department and Commission and this Code.
- 16-15-05 Boating safety equipment.

No person shall operate any vessel, motorboat, watercraft, ski-jet or floating device without maintaining the equipment in Section 16-15-06 on or within any boat, craft, vessel or floating device.

- 16-15-06 All vessels, motorboats, watercraft, ski-jet or other floating device less than sixteen (16) feet in length and non-motorized boats, must have at least one (1) Coast Guard approved Type I, type II, or IV floatation device for each person on board, and all boats sixteen (16) feet and over in length must have, in addition, at least one (1) Coast Guard approved throwable Type IV device on-board.
- 16-15-07 All persons using water skis, surfboard or similar device must wear a Coast Guard approved Type I, II, or III floatation device.
- 16-15-08 Any enforcement officer who observes a vessel being used in an unsafe condition or manner and in the officer's judgment such use creates a hazardous condition, may direct the operator to take whatever immediate and reasonable steps that would be necessary for the safety of those aboard the vessel or other floating device, including directing the operator to return to mooring and to remain there until the situation creating the hazard is corrected or ended; provided that for the purpose of this section an unsafe condition shall be defined as any one of the following:
- a. operating without boating safety equipment;
 - b. operating in an overloaded condition;
 - c. fuel leakage or presence of fuel in bilges;
 - d. riding on the bow, gunwale, transom, or on the back of seats without taking precautions to prevent persons falling overboard;
 - e. operating in weather or water conditions which endanger the boat and/or occupants;
 - f. operating a boat without a battery cover in place; or
 - g. operating a boat without the necessary lights for low light conditions.
- 16-15-09 Water safety – boating – negligent operation
It shall be a violation of this Code for any person to operate any vessel or other floating device on the waters of this Reservation in a careless or heedless manner so as to be indifferent to the person or property of other persons, or at a rate of speed greater than will permit him/her in the exercise of reasonable care to bring the vessel to a stop within the assured clear distance ahead. Violation of this section is a class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-15-10 The owner of a vessel or other floating device shall be liable for injury or damage occasioned by the negligent operation of such vessel, whether such negligence consists of a violation of this Code, or neglecting to observe such ordinary care such operation as the rules or regulations that may be promulgated by the

Department and Commission. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-15-11 The owner shall not be liable unless such vessel is being used and operated with his/her expressed or implied consent. It shall be presumed that such vessel or other floating device is being operated with the knowledge and consent of the owner; if at any time of the injury or damage it is under control of his/her immediate family members. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties under 16-05-04.
- 16-15-12 Nothing herein relieves any other person from any liability he/she would otherwise have and nothing contained herein authorized or permits any recovery in excess of injury or damage actually incurred. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties,
- 16-15-13 Boating – overloading
It shall be a violation of this Code for any person to operate any vessel or other floating device loaded with passengers or cargo beyond its safe carrying capacity taking into consideration weather and other existing operating conditions. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-15-14 Boating – speed
It shall be a violation of this Code for any person to operate a vessel or other floating device on the waters of this Reservation at a speed or under conditions that cause any damage to or affects the safety of other vessels, docks, shoreline installations or other property or person. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties under Section 16-05-14.
- 16-15-15 Boating – lighting
It shall be a violation of this Code for any person to operate a vessel or other floating device on the waters of this Reservation during hours of darkness or between one (1) hour after sunset and one (1) hour before sunrise without lighted running lights attached to both bow and stern of such vessel. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-15-16 Boating – Flotation devices.
It shall be a violation of this Code for any person to operate a vessel, motorboat, watercraft, ski-jet or other floating device on waters of this Reservation without Coast Guard approved flotation device for each person aboard. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

- 16-15-17 Boating – incapacity of operator.
It shall be a violation of this Code for the owner of any vessel or any person having such in charge or in his/her control to authorize or knowingly permit the same to be operated on the waters of this Reservation by any person who by reason of age, physical or mental disability is incapable of operating such vessel under the prevailing circumstances. Violation of this section is a Class I Misdemeanor under Section 16-16-01 and subject to applicable civil penalties.
- 16-15-18 Boating – intoxication.
It shall be a violation of this Code for the owner of any vessel or any person having such in charge or in his/her control to operate or knowingly authorize a vessel, boat, watercraft, ski-jet or other floating device to be operated while under the influence of alcohol, intoxicant or controlled substance with a blood alcohol concentration of 0.10% or more by weight of alcohol in the person's blood or 0.10% grams or more alcohol in 200 liters of that persons breath or to a degree that the person is incapable of safely operating said vessel. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-15-19 Boating – swimming areas.
It shall be a violation of this Code for the owner or operating having charge of any vessel, boat, watercraft, ski-jet or other floating device in his/her control to knowingly operate a vessel, boat, watercraft, ski-jet or other floating device within any designated swimming areas or in areas where swimmers are present; provided, further, that no person shall operate a vessel, boat, watercraft, ski-jet or other floating device within one hundred (100) yards of a skin-diving zone marked by the appropriate diving flags indicating the presence of skin divers (scuba diving) below the surface. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-15-20 Boating – fishing.
It shall be a violation of this Code for the owner or operator having charge of any vessel, boat, watercraft, ski-jet or other floating device in his/her control to knowingly operate such vessel in a manner as to molest, disturb or annoy persons lawfully engaged in fishing. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-15-21 Collisions, accidents, casualties and liability.
Any person involved in a collision and/or accident shall give their name, address, and identification of the vessel or other floating device in writing to any person injured and to the owner of any property damaged in excess of one hundred dollars (\$100.00); or should a person disappear from any vessel under circumstances that indicate death or injury, the operator thereof shall file with the Department Director, a full description of the collision, accident, or other casualty, including such information as the Commission may, by regulation, require.

- 16-15-22 It shall be the duty of the operator of any vessel and/or boat involved in a collision, accident, or other casualty, so far as he/she can do without serious danger to his/her own life or property, to render aid to persons affected by the collision, accident, or other casualty.
- 16-15-23 Any person involved in a collision and/or accident shall be liable for any damages directly and proximately caused by said accident should it be found that said vessel was being operated in negligent manner as indicated by this Chapter.
- 16-15-24 Throwing refuse in waters.
No person shall deposit, place or throw into any waters of the Reservation, or leave upon the ice any cans, bottles, debris, refuse or other solid waste material. Violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-15-25 Abandonment; automobiles, boats or other vehicles.
No person shall abandon any automobile, boat or other vehicles in or around any waters of the Reservation. Any automobile, boat, or other vehicles not removed from such waters within thirty (30) days shall constitute abandonment and be considered a violation of this Code. The Department shall remove or cause to be removed after thirty (30) days any automobile, boat, or other vehicle that has been determined to be abandoned and related costs will be assessed to owner of said automobile, boat, or other vehicle. A violation of this section is a Class F Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

Subchapter 6 Baitfish

- 16-16-01 Baitfish regulations.**
- 16-16-02 Jurisdiction.
The Tribe shall have exclusive jurisdiction over all waters that abut Tribal and trust lands, including over all matters relating to the propagation, conservation, management, distribution, commercial sale, transportation and storage of baitfish.
- 16-16-03 License.
Only enrolled members of the Tribe, may trap, take or attempt to take any baitfish pursuant to this Code if possessing a valid Tribal Business License and a Commercial Baitfish Permit. These licenses shall be nontransferable.
- 16-16-04 Fee
Tribal Member Business License Fee and Tribal Member Wholesale/Retail Bait Dealer Permit Fee are to be set by the Commission annually.

- 16-16-05 Duration
All licenses expire on December 31st of the calendar year for which the license is issued.
- 16-16-06 Display of Dealers License
A true copy of the dealer's license must be conspicuously displayed in all places where bait is sold.
- 16-16-07 Bait defined.
Baitfish includes fish of the minnow family, except carp and goldfish, fish of the sucker family, except buffalofish and carpsucker, and fish of the stickleback family.
- 16-16-08 Traps.
Any Tribal member, taking baitfish for personal use may use lift traps up to three (3) feet square with mesh three-eighths (3/8) inches square or less or round cylinder type traps no larger than twelve (12) inches in diameter and thirty-six (36) inches long with funnel entrances no larger than one (1) inch wide. Larger equipment may be used by the Department, and commercial baitfish dealers (box traps with lead, etc.) Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-16-09 Trap spacing.
Bait traps must not be set either singularly or in a series so as to cover more than one-half (1/2) of the width of any stream. All bait traps must be lifted and emptied of fish often enough to prevent loss of bait or other animals and at least once in ever forty-eight (48) hours between April 1st and October 31st, and at least once in every seventy-two (72) hours between November 1st and March 31st. Violation of this section is a violation of a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-16-10 Trap markings.
All bait traps must be marked or numbered conspicuously and legibly with the owner's name and address. Bait traps lost or stolen must be reported within ten (10) days of knowledge of loss to the Department. Owners will be liable for all violations involving unreported loss or stolen traps. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-16-11 Transportation.
No one may transport more than twelve (12) dozen baitfish or other gill-breathing animals directly from the waters from which they were taken in any container containing less than fifty (50) gallons of water except in containers equipped with temperature controls and aeration equipment, or in controlled environment containers capable of maintaining sufficient oxygen to support fish life. No bait dealer may transport baitfish or other gill-breathing animals in water of higher

temperature than sixty (60) degrees Fahrenheit, except in a container provided with aerating equipment, operating so as to maintain sufficient dissolved oxygen in good condition whether or not the vehicle is in motion. Transportation equipment will be such as to allow inspection of bait at all times. No fish, except baitfish, can be transported by a dealer while he is transporting bait. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-16-12 Keeping baitfish.

No person shall keep more than twelve (12) dozen baitfish or other gill-breathing animal in any container unless it is equipped with aerating equipment or is provided with a continuous flow of water sufficient to maintain dissolved oxygen in a quantity adequate to maintain the bait in good condition. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-16-13 Evidence of violation.

Any loss in excess of one (1) quart of bait for every fifty (50) gallons of water or portion thereof in any container used for keeping or transporting bait will be prima facie evidence of violation of the applicable provisions hereof relating to sufficient quantities of dissolved oxygen. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-16-14 Return to waters.

Game fish and endangered or threatened species must be released and/or returned to the water from which they are taken. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-16-15 Discarded bait.

It is unlawful for any person to empty the contents of any minnow bucket or any other receptacle containing bait into any waters under the jurisdiction of the Tribe. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-16-16 Trespass.

No person may trespass on private lands without the permission from the owner(s). Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.

16-16-17 Records.

Licensed bait dealers must maintain records of:

- a. The gallons of baitfish sold to retail and wholesale minnow dealers.
- b. Name and address of buyer.
- c. Species sold.
- d. Quantity sold, and
- e. Date sold.

Violation of this section is a Class I Misdemeanor under Section 16-16-01 and subject to applicable civil penalties.

- 16-16-18 **Revocation.**
Violation of any of the laws and regulations pertaining to baitfish may be cause for revocation of the violator’s license and for the refusal to issue a license in the following year following the violation. Violation of this section is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties.
- 16-16-19 **Violation.**
A violation of this Baitfish Code is a Class I Misdemeanor under Section 16-18-01 and subject to applicable civil penalties punishable upon conviction by a fine not to exceed five thousand dollars (\$5000.00) or by imprisonment not to exceed one (1) year, or both.
- 16-16-20 **Exemption.**
The Department or duly appointed individual acting on behalf of the Tribe is except from all the above regulations.

**Subchapter 7
Violations, Penalties and Fines**

- 16-17-01 Violations of Chapter and regulations: Penalties and fines.**
Except as otherwise specifically provided in this Chapter, upon conviction, any violator of this Chapter or of any of the rules and regulations promulgated pursuant thereto shall be punishable by imprisonment not to exceed one (1) year or by a criminal fine not to exceed five thousand dollars (\$5,000.00), or by both. In addition to or in lieu of any criminal penalty authorized under this section, any person found to have violated any provision of this Chapter or any rule or regulation promulgated pursuant thereto may be civilly fined in an amount not to exceed five thousand dollars (\$5,000.00) and the court may confiscate any property of a violator that was used, directly or indirectly, in committing the violation. Any fines or property forfeited to the court as a result of a violation of this Chapter or the rules and regulations promulgated pursuant thereto shall be remitted to the Tribal Treasurer to be budgeted for the operations of the Department.

**Subchapter 8
Classification of Offenses**

- 16-18-01 **Classification of offenses.**
- | | |
|------------------|-----------------------------|
| CLASS ONE (1) | One (1) year incarceration, |
| MISDEMEANOR: | \$5,000.000 Fine or both** |
| Maximum Sentence | |

CLASS A MISDEMEANOR: Maximum Sentence	Eight (8) months incarceration, \$1,000.00 Fine, or both**
CLASS B MISDEMEANOR: Maximum Sentence	Four (4) months incarceration, \$400.00 Fine, or both**
CLASS C MISDEMEANOR: Maximum Sentence	Three (3) months incarceration, \$250.00 Fine, or both**
CLASS D MISDEMEANOR: Maximum Sentence	Forty-Five (45) days incarceration, \$100.00 Fine, or both**
CLASS E MISDEMEANOR: Maximum Sentence	Fifteen (15) days incarceration, \$50.00 fine, or both**

AS PROVIDED FOR IN THESE CODES, THE COURT IN ITS DISCRETION, MAY ALSO ORDER RESTITUTION AND/OR WORK FOR THE BENEFIT OF THE TRIBE.

CLASS F MISDEMEANOR: Maximum Sentence	\$75.00 Fine
CLASS G MISDEMEANOR: Maximum Sentence	\$50.00 Fine
SPECIAL CLASS MISDEMEANOR:	Sentence to Imprisonment, Fine or Work.


- 16-18-02 No section of this Code shall prohibit the court from imposing any sentence, deemed more appropriate than imprisonment or a fine, under the circumstances of a particular case.
- 16-18-03 Sentences may include for example:
Commitment to a rehabilitation program;
Work for the benefit of the Tribe;
Restitution, etc.

16-18-04 Court adjudication.

If any clause, sentence, paragraph, section, or part of this Chapter shall for any reason be adjudicated by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

WEIGHTED VOTE ON MOTION NO. 69: 11 For: Jerome Renville, Sr. (2); Lloyd LaBelle, Jr. (3); Louis Johnson (1); Joyce Country (2); Francis Crawford (2); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Vice-Chairman.

MOTION PASSED.



MOTION NO. 70: made by Joyce Country, second by Lloyd LaBelle, Jr., question by Francis Crawford, to approve the revised SWO Chapter 16 – Fish and Wildlife Code, as presented by Realty Manager Alvah Quinn, Sr.

WEIGHTED VOTE ON MOTION NO. 70: 11 For: Jerome Renville, Sr. (2); Lloyd LaBelle, Jr. (3); Louis Johnson (1); Joyce Country (2); Francis Crawford (2); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Vice-Chairman.

MOTION PASSED.

MOTION NO. 71: made by Jerome Renville, Sr., second by Joyce Country, question by Francis Crawford, to hire two (2) part-time game wardens, to assist in the upcoming Tribal hunting seasons, and if no qualified applicants apply, combine the positions and hire one (1) full-time game warden, if the Fish and Wildlife budget can absorb the cost.

WEIGHTED VOTE ON MOTION NO. 71: 11 For: Jerome Renville, Sr. (2); Lloyd LaBelle, Jr. (3); Louis Johnson (1); Joyce Country (2); Francis Crawford (2); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Vice-Chairman.

MOTION PASSED.

MOTION NO. 72: made by Francis Crawford, to terminate the contract with Chief Judge BJ Jones and readvertise the position.

MOTION DIED. Lack of Second.

MOTION NO. 73: made by Francis Crawford, second by Jerome Renville, Sr., question by Joyce Country, to terminate the contract with Associate Judge Michael Swallow and readvertise the position. (**Motion Rescinded via Motion No. 93, of 8/30/11**)

WEIGHTED VOTE ON MOTION NO. 73: 11 For: Jerome Renville, Sr. (2); Lloyd LaBelle, Jr. (3); Louis Johnson (1); Joyce Country (2); Francis Crawford (2); Tribal Secretary (1). 0 Opposed. 0 Abstained. 0 Absent From Vote. 1 Not Voting: Tribal Vice-Chairman.

MOTION PASSED. (Motion Rescinded via Motion No. 93, of 8/30/11)

MOTION NO. 74: made by Francis Crawford, to terminate the contract with Tribal Prosecutor Karen Gangle and readvertise the position.

MOTION DIED. Lack of Second.