

## TITLE 4 NATURAL RESOURCES AND ENVIRONMENT

### CHAPTER 4-1 FISH, WILDLIFE AND RECREATION

#### GENERAL PROVISIONS

**4-1-1**     Title

This Chapter shall be known as the Colville Tribal Hunting and Fishing Chapter of this Code.

**4-1-2**     Policy

It is the policy of the Confederated Tribes of the Colville Reservation (Confederated Tribes, Colville Tribes, Tribes) to restore, preserve, protect and perpetuate the fish and game resources (wildlife) on the Colville Indian Reservation, the North Half, and off the Colville Reservation to the extent that wildlife passes through or would pass through the usual and accustomed fishing grounds and stations, hunting areas, or aboriginal lands of the Tribes.

**4-1-3**     Legislative Intent

(a) Pursuant to the power vested in it by Article V of the Constitution of the Confederated Tribes of the Colville Reservation, the Business Council of the Tribes recognizes the spiritual, cultural, and economic value of the wildlife and recreation resources of the Colville Reservation and on the North Half and within the aboriginal territory of the Colville Confederated Tribes; that these resources are an irreplaceable tribal asset; that unregulated use of the wildlife and recreation resources of the Tribes would threaten the political integrity, economic security, and health and welfare of the Tribes; it is the duty of the Tribes to regulate, manage and properly harvest wildlife resources located within the aboriginal territory of the Tribes and hereby enacts this Fish, Wildlife and Recreation Chapter to ensure proper and support management of these vital resources.

(b) The Colville Tribal people alone have the absolute, inherent, retained sovereign right to use and enjoy the Colville Reservation and the resources located thereon. In regulating wildlife and recreation resources of the Reservation, the Business Council intends that tribal members shall be afforded the greatest possible freedom to use and enjoy these resources consistent with the preservation and improvement of these resources for future generations. All wildlife found on the Reservation, whether resident or migratory or introduced, is the property of the membership of the Colville Tribes and shall be regulated by the Tribes, and may be taken only at such times, in such places, and in such a manner as provided by tribal law.

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

(d) The Tribes has a special duty to manage the wildlife resources located off the Reservation, and on the North Half of the Colville Reservation in order to ensure that tribal members have a fair and equitable opportunity to harvest wildlife there available, ensure the proper conservation of wildlife located off the Reservation, provide for public safety in the harvest of such wildlife and to work for the mitigation and enhancement of the resources available so to guarantee that wildlife will be available into the future.

(Amended 8/6/09, Resolution 2009-580)

**4-1-4**     Scope and Coverage of Chapter

This Chapter and all regulations adopted under this Chapter shall apply to all persons who hunt, fish, engage in recreational activities or engage in any activity related to hunting or fishing or recreational pursuits on the Colville Indian Reservation, to members hunting and fishing on the North Half, and to members who hunt or fish off-Reservation pursuant to rights held by the Confederated Tribes of the Colville Reservation to the full extent of the Colville Tribes' authority and jurisdiction.

**4-1-5**     Jurisdiction and Management

(a) Except as otherwise provided by this Chapter, the Colville Tribes, through its Business Council, Tribal Court, and such other tribal entities as are designated by tribal law, shall have absolute, original, and

(August 2009 version of Chapter 4-1)

exclusive jurisdiction to regulate and adjudicate all matters pertaining to wildlife (whether resident or migratory, native or introduced) found on the Reservation, such other lands as have been or may be added to the Reservation, and allotments, and all matters pertaining to the recreation resources of the Reservation.

(b) To the greatest extent permissible by law, the provisions of this Chapter shall apply to any person on lands in the North Half and on other lands where the Colville Confederated Tribes may be authorized to enforce its interests or rights and to any member asserting rights held by the Tribe without regard to location. By agreement approved by the Business Council such authority may be delegated, or carried out through cross deputization agreements.

(c) The Colville Tribal Court or such other tribunal as designated by the Council shall have exclusive jurisdiction over all violations of this Chapter and any regulation adopted pursuant thereto except as this Chapter reserves that authority to the Business Council or allows for potential federal prosecution.

(d) In addition to the other jurisdictional provisions of this section, the Colville Confederated Tribes:

(1) Hereby assumes exclusive control and management of all National Park Service designated campsites in the Freeboard Area within the Indian zone, namely: Sanpoil Campground, Three-Mile, Wilmont Creek, and Barnaby Island. Such sites shall be designated for camping and picnicking by non-members subject to the hunting, fishing and camping provisions of this Chapter;

(2) Will designate other shoreline and free board areas where it will permit without charge casual daytime stopping and picnicking without fires for the convenience and enjoyment of the general public in its use of Lake Roosevelt for boating, swimming, water skiing, hunting, fishing and other recreational purposes. Such designated areas will be suitably posted and publicized. The general public is forbidden to so utilize any beach, shoreline or freeboard area that is not so designated;

(3) Except as authorized by regulation adopted pursuant to this Chapter, hereby designates all shorelines of Lake Roosevelt Reservoir area bordering the Colville Reservation to the 1310 line for the exclusive use by residents of the Colville Reservation, tribal members and their children and spouses, and other Indians for swimming, picnicking and other recreational uses. No other person will be permitted to enter said area or to boat within two hundred (200) feet of its shoreline or within a larger water surface area that may be marked off with suitable buoys;

(4) Hereby designates the Omak Lake beach areas located in Sections 29 and 30, T.32N., R.28E, WMW, be restricted to use by enrolled members of the Colville Confederated Tribes and their immediate families and their invited guests, and that, Colville Tribal Forestry, construct and place wooden signs in prominent locations on Omak Lake advising the public of these new restrictions.

(5) It hereby assumes exclusive jurisdiction and control over Indian boats and boating within the Indian zone adopting by reference, however, the safety regulations of the National Coast Guard with regard to the operation of boats. The Coast Guard, National Park Service and/or State of Washington are acknowledged, until further notice, to have jurisdiction concurrent with that of the Tribes to enforce among non-Indians all of their relevant rules and regulations regarding boat registration, safety regulations and related matters;

(6) Unless, otherwise provided by federal law, it hereby assumes exclusive jurisdiction to govern and regulate the issuance of permits for concessions, docks, pumping stations and other activities and structures within the Indian Zone.

#### 4-1-6

#### **Definitions**

In this Chapter, unless the context requires another meaning, the following terms shall mean:

(a) "Aboriginal hunting and fishing rights" means those rights to hunt and fish in the territory occupied by the Colville Tribes at and before 1872.

- (b) "Artificial light" means any light produced by other than natural sources, including but not limited to, jacklights, spotlights, flashlights or vehicular headlights.
- (c) "Bait" means any biological organism, vertebrate or invertebrate, live, dead, or artificial that may be used for the purpose of taking fish or trapping animals.
- (d) "Beach seine" (drag seine) shall be defined as fishing gear consisting of a lead line, cork line, auxiliary lines, and a mesh net webbing fashioned in such a manner that it can be used to encircle fish in waters adjacent to any beach, with the catch landed directly on the beach.
- (e) "Biological personnel" means persons trained in biological and/or wildlife management who are employed by, or are working with, the Colville Tribes and whose duties include advising on the management and/or enhancement of Tribal fishing or hunting.
- (f) "Business Council" or "Council" means the elected governing body of the Confederated Tribes of the Colville Reservation as prescribed in Article II of the Colville Constitution.
- (g) "Buyer" means a person who purchases fish or game for resale.
- (h) "Camping" means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel, for the apparent purpose of overnight occupancy.
- (i) "Ceremonial fishing" means the taking of fish for use in traditional tribal ceremonies and/or for religious purposes. Only enrolled members of the Colville Tribes shall exercise ceremonial fishing rights.
- (j) "Ceremonial hunting" means taking of game for use in traditional tribal ceremonies and/or for religious purposes. Only enrolled members of the Colville Tribes shall exercise ceremonial hunting rights.
- (k) "Chumming" means scattering feed or other material to attract fish to a location.
- (l) "Closed area" means those portions of the Colville Reservation not open for either hunting and/or fishing of a species, and those areas off the Reservation or on the North Half not open for tribal hunting and/or fishing.
- (m) "Closed season" means all of the time during the entire calendar year excepting the "open season" as specified by this Chapter or regulation.
- (n) "Closed waters" means any lake, river, stream, body of water, or any part thereof on or off the Reservation described or designated by this Chapter or regulation wherein it shall be unlawful to fish for certain species.
- (o) "Colville Indian people" means enrolled members of the Confederated Tribes of the Colville Reservation.
- (p) "Commercial fishing" means the harvesting of fish with the intent to sell, trade or barter them to any person in return for money, property or other consideration. Commercial fishing shall not include the sale or exchange of fish with other tribal members for use by the tribal member purchaser for personal consumption. Only fish caught in accordance with commercial fishing regulations may be sold.
- (q) "Commercial management area" means an area designated as a commercial fish management and catch reporting area by the Fish and Wildlife Department. Specific areas may be subdivided by tribal fisheries personnel where more detailed information on a particular fish species or fishery is desired.
- (r) "Committee" means the Natural Resources Committee established pursuant to this Chapter.

(s) "Daily bag limit" means the maximum number of wildlife which may be taken or possessed by any person, specified and fixed by this Chapter or any regulations of the Business Council for any twenty-four (24) hour period, including size, sex or species.

(t) "Department" means within the subpart of this Chapter shall be defined within its contexts as either the Fish and Wildlife Department of the Colville Tribes or the Natural Resources Department of the Colville Tribes.

(u) "Depredation" means any act by a wild animal that causes the destruction of or damage to property.

(v) "Depths of net" means the total distance between cork and lead lines measured perpendicular to either cork or lead line.

(w) "Designated campground" means a site where tent or trailer camping is permitted. Designated campgrounds are of two types:

(1) Primitive (outhouses, picnic tables, and grills); and

(2) Developed (flush toilets, water, picnic tables, and grill).

(x) "Director" means the person selected to administer the Tribal Fish and Wildlife Department.

(y) "Drift net" (pole net) means a gill net which is not staked, anchored or weighted so that it may drift free.

(z) "Fish" when used as a noun herein, shall include, all animals included in the order Pisces.

(aa) "Fish" used as an adjective or verb and its derivatives, "fishing, fished, etc." means any effort made to kill, injure, disturb, capture or catch fish.

(bb) "Fishery management period" means a time interval during which the majority of individuals of a fish species is accessible to capture. A management period is specific to a species and a single species may have more than one management period during the course of the year depending upon the cycle of that species.

(cc) "Fishing permit" means a permit required by the Business Council for the taking of fish on the Reservation.

(dd) "Fishing gear" means all types and sizes of apparatus including scaffolds used to take fish defined in this Chapter or by regulation including but not limited to hooks, nets, spears, gaffs, lines, traps and appliances. The functional definition of any type of gear may be modified by Tribal regulation notwithstanding any definition contained herein.

(ee) "Fishing lure" means any artificial bait, that may be used for the purpose of taking fish.

(ff) "Fur-bearing animals" means those animals whose skins are used commercially as fur and are designated as fur bearing animals by the Council.

(gg) "Gaff or snag line" means hand operated gear which are used to impale fish by pursuing and striking the individual fish with the gear.

(hh) "Game animals" means wild animals that are normally hunted for food or sport and are designated as game animals by the Council.

(ii) "Game birds" means wild birds that are normally hunted for food or sport and are designated as game birds by the Council.

(jj) "Game fish" means aquatic cold blooded wildlife that are normally harvested for food and are designated as "game fish" by the Council.

(kk) "Gill net" means a net of a single web construction bound at the top by a cork line and at the bottom by a lead line. Gill nets operated when mature salmon are present shall not exceed one-thousand eight-hundred (1,800) feet in overall length unless other length requirements are provided by tribal regulations.

(ll) "Guest" means any non-member, not qualifying as family of a tribal member, who engages in trail, off-road use, or camping activities in the company of one or more adult tribal member.

(mm) "Hand dip net" (dip bag net) means a section of netting distended by a rigid frame, operated by a process commonly recognized as dipping. Such nets may be of a size as determined by tribal regulation.

(nn) "Harassing" or "harassment of person" means a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose.

(oo) "Harassment of wildlife" means to engage in any act which demonstrates a disregard for the well being of wildlife or which creates the likelihood of injury, or disrupts normal behavior patterns of wildlife including feeding, watering, resting, and breeding. Such acts include, but are not limited to, chasing, pursuing, herding, or attempting to take wildlife.

(pp) "Head of household" means any member of the Tribes who is solely or substantially responsible for providing his or her own care and maintenance or that of his family.

(qq) "Highway legal" means any motorized vehicle legal to operate on all public, all primary and secondary highways, state highways and interstate highways, including the entire right-of-way.

(rr) "Highway road" means all primary and secondary state highways and interstate highways, including the entire right-of-way.

(ss) "Hook and Line" means a simple line, attached to no more than two (2) single barbed hooks or a single triple-barbed hook.

(tt) "Hunt or Hunting" means shooting, shooting at, chasing, driving, flushing, attracting, brushing, pursuing, trapping, stalking or lying in wait for any wildlife whether or not such wildlife is then or subsequently captured, killed, taken, or wounded. Such term does not include stalking, attracting, searching for or lying in wait for any wildlife by an unarmed person solely for the purpose of watching wildlife or taking pictures or making sound recordings thereof.

(uu) "Immediate family" or "family of tribal member" means for the purpose of section 4-1-480, Non-member Camping, shall be defined as related persons and immediate kin of both a tribal member and a non-member spouse, whether related by blood or marriage, including parents, children (including foster children and children of previous marriages), brother, sister, aunts, uncles, grandparents, grandchildren, nieces, nephews, cousins, as well as members of the household of a tribal member living under the same roof to the extent inconsistent with this definition Resolution No. 1990-477 (Omak Lake), 1988-338 (Restricted Beach Area), and 1997-547 (certain campgrounds and recreation areas) are hereby repealed.

(vv) "Indian" means any person of Indian descent who is a member of a federally recognized Indian Tribe according to the laws of that tribe, and any other person recognized by federal or tribal law as an Indian for any purpose, and denotes both the singular and the plural.

(ww) "Lampara" (round haul) means fishing gear having no purse line or rings, but employing a lead line, cork line, special tag, or auxiliary lines attached to the lead line and webbing in such a manner that the fish are encircled in open water.

(xx) "Loaded weapon" means a firearm that has a bullet in the chamber.

(Amended 8/6/09, Resolution 2009-

580)

(yy) "Member" or "tribal member" means any person who is enrolled in the Confederated Tribes of the Colville Reservation (Colville Confederated Tribes, Colville Tribes, or Tribes).

(zz) "Migratory waterfowl" means those birds classified as waterfowl and protected under the Federal Migratory Bird Treaty Act.

(aaa) "Minor" means for purpose of this Chapter only, any person under the age of sixteen (16) years.

(bbb) "Natural resources enforcement officer(s)" means the person or persons charged with the responsibility of enforcing this Chapter regulations and tribal resolutions promulgated hereunder and shall include all Colville Tribal:

(1) Police officers;

(2) Parks & Recreation Program law enforcement personnel;

(3) Fish & Wildlife Program law enforcement personnel;

(4) Regulatory enforcement officer; and

(5) Any other qualified individual authorized by the Business Council to act as a natural resources enforcement officer under this Chapter.

(ccc) "Non-highway road" means any public road within the boundaries of the Colville Reservation, except highways.

(ddd) "Non-motorboats" means boats that are not powered by a motor, power plant, gas or electric engine, i.e., boats powered by oars, canoe, paddleboat, float tube, kayak and rubber rafts.

(eee) "Non-motorized vehicle" commonly known as a mountain bike.

(fff) "Non-protected animals" means wild birds and animals that may be hunted throughout the year as authorized by the Council.

(ggg) "Net length measure" means that length of any net measured along the cork or top line.

(hhh) "North Half" means all lands of the Colville Reservation as set apart in the Executive Order of July 2, 1872, that were ceded to the United States pursuant to the Agreement of May 9, 1891, in which the Tribes holds reserved rights to hunt, fish, and gather, and which consists generally of the lands between the current northern boundary of the Reservation and the Canadian border and between the Okanogan and Columbia rivers.

(Amended 8/11/98, Resolution 1998-603)

(iii) "Nuisance device" is any device designed to silence, muffle, or minimize the report of any firearm, whether separated from or attached to such firearm; any net, trap, crossbow, explosive, poisonous or stupefying substance, or device which is set, used or intended for use in taking wildlife in violation of this Chapter.

(jjj) "Off-reservation" means all lands, territories, waters and streams located outside the Colville

(August 2009 version of Chapter 4-1)

Reservation as defined in section 1-1-361 of this Code, including but not limited to the North Half.  
(Amended 8/11/98, Resolution 1998-603)

(kkk) "Off-road vehicle" or "ORV" means any motorized vehicle, when used for recreational travel on trails, non-highway roads and cross-country travel over natural terrain; such vehicles include but are not limited to: motorcycles, dune buggies, snowmobiles, and all-terrain vehicles.

(lll) "On reservation" means within the exterior boundaries of the Colville Reservation as defined in section 1-1-361 of this Code.  
(Amended 8/11/98, Resolution 1998-603)

(mmm) "Open season" means the time specified by regulation or this Chapter when it is lawful to fish or hunt.

(nnn) "Open waters" means those waters opened by in-season regulation for specific management purposes.

(ooo) "Open and Unclaimed Lands" means all lands located outside the Colville Indian Reservation and other Reservations where the Colville Tribes reserved by Treaty or other agreement the right to hunt or fish.

(ppp) "Operator" means any person who operates or is in physical control of an ORV.

(qqq) "ORV closed area" means that portion of the Colville Reservation where the use of an ORV is prohibited.

(rrr) "Owner" means any person, other than a mere lien holder, having a property interest in an ORV and entitled to use or possess said ORV.

(sss) "Undeveloped and un-maintained areas" means areas where the Tribes has no campground facilities and which the Tribes does not maintain. Because there is no garbage pick-up in these areas, everything that is packed in must be packed out.

(ttt) "Person" means any individual, firm, partnership, association or corporation.

(uuu) "Pollution" or "to pollute" means the introducing by any means of any substance in liquid, solid or gaseous form into or upon Reservation resources in sufficient quantities as may be directly or indirectly injurious to the health, safety or welfare of the Reservation population or which may be directly or indirectly injurious to livestock, wildlife, and their habitat.

(vvv) "Possession limit" means the maximum numbers of a given wildlife species that may be possessed.

(www) "Predator" means wild birds and animals: (1) whose primary method of feeding is by killing and eating other animals and (2) that may be hunted throughout the year as authorized by the Council.

(xxx) "Protected wildlife or species" means those species of wildlife whose members exist in Washington in a wild state and for which hunting is closed or otherwise regulated.

(1) "Endangered species" means wildlife identified under federal or state law as being likely to become extinct.

(2) "Threatened species" means wildlife identified under federal or state law as being likely to become endangered of extinction.

(yyy) "Public highway" means every road, regardless of surface, maintained by federal, state, county or other public funds.

(Amended 8/6/09, Resolution 2009-580)

(August 2009 version of Chapter 4-1)

(zzz) "Public housing site" means areas of public housing on trust or tribal land. Examples include: Colville Indian Housing Authority or HUD housing sites, trailer courts, and the Nespelem Agency Campus public housing.

(Amended 8/6/09, Resolution 2009-580)

(aaaa) "Random camping" means camping outside designated camping areas.

(Amended 8/6/09, Resolution 2009-580)

(bbbb) "Recreational vehicle" means a vehicle or unit that is self-propelled or mounted on or drawn by another vehicle designed for temporary living which may be moved on public highways. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes.

(Amended 8/6/09, Resolution 2009-580)

(cccc) "Regulation" means any rule, regulation, resolutions or ordinance promulgated pursuant to this Chapter.

(Amended 8/6/09, Resolution 2009-580)

(dddd) "Resolution" means a written action or decision by the Business Council of the Colville Confederated Tribes including the enactment of a tribal law or laws.

(Amended 8/6/09, Resolution 2009-580)

(eeee) "Reservation" means the Colville Reservation as defined in section 1-1-361 of this Code.

(Amended 8/6/09, Resolution 2009-580)  
(Amend 8/11/98, Resolution 1998-603)

(ffff) "Scaffold" means the permanent or temporary structure attached to the shore from which fishing takes place.

(Amended 8/6/09, Resolution 2009-580)

(gggg) "Shoreline" means all Type 1, Type 2, Type 3, and Type 4 waters of the Reservation as defined in CTC § 4-15-5 et seq., including reservoirs, and their associated shorelines, floodplains and wetlands, together with the lands underlying them. Shoreline includes all beaches of the Reservation.

(Amended 8/6/09, Resolution 2009-580)

(hhhh) "Shoreline jurisdiction" means those lands subject to the regulation contained in the Shoreline Management Program. Such lands include those extending landward 400 feet on a horizontal plane from the ordinary high water mark of Type 1 waters; 300 feet on the horizontal plane from the ordinary high water mark of Type 2 waters; 200 feet on a horizontal plane from the ordinary high water mark of Type 3 waters; and 100 feet on the horizontal plane from the ordinary high water mark of Type 4 waters; including any floodways and contiguous floodplain areas and all wetlands associated with the streams and lakes which are subject to the provisions of this policy.

(Amended 8/6/09, Resolution 2009-580)

(iiii) "Shorelines of the Reservation" are the total of all "shorelines" within the Reservation.

(Amended 8/6/09, Resolution 2009-580)

(jjjj) "Spouse" for purposes of this Chapter means a wife or husband of an enrolled tribal member.

(Amended 8/6/09, Resolution 2009-580)



(kkkk) "Stretched mesh measure" means the distance between the inside of one (1) knot to the outside (vertical) knot of one (1) mesh when while wet, by using a tension of ten (10) pounds of any three (3) consecutive meshes, then measuring the middle mesh of the three (3) while under tension.

(Amended 8/6/09, Resolution 2009-

580)

(llll) "Subsistence fishing" means the taking of fish by enrolled Colville members for consumption by tribal members and their immediate families or other tribal members. Subsistence fishing is exclusive of fishing for commercial or ceremonial fishing, except that subsistence fish may be sold for personal consumption to other Tribal members.

(Amended 8/6/09, Resolution 2009-

580)

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

(Amended 8/6/09, Resolution 2009-

580)

(nnnn) "Taxidermy" means the art or process of stuffing and mounting fish or wildlife skins in lifelike form.

(Amended 8/6/09, Resolution 2009-

580)

(oooo) "Test fishery" means a fishery allowed on a limited basis for the purpose of acquiring technical or management information including run strength, time, composition, gear selectivity, exploitation rate and enhancement possibilities.

(Amended 8/6/09, Resolution 2009-

580)

(pppp) "Trail" means any path used for travel, which is not necessarily suitable for travel by automobile.

(Amended 8/6/09, Resolution 2009-

580)

(qqqq) "Treaty fishing and hunting rights" means those rights reserved by the Treaty at Walla Walla with the Yakimas and other Tribes including Entiat, Wenatchee, Columbia, Paluse, Chelan, and the Treaty with the Nez Perce including the Chief Joseph Band of Nez Perce Indians, and in both cases, the United States Government.

(Amended 8/6/09, Resolution 2009-

580)

(rrrr) "Trespass" means to:

(1) Enter upon the real property of another that is posted to prohibit trespassing, is fenced or contains obvious outward signs of habitability without permission of the owner or the owner's agent;

(2) Enter tribal lands that are not specifically posted as open to the public;

(3) Refuse to depart from or re-enter the Colville Reservation in violation of an order of exclusion issued by the Tribal Court as provided by this Code; or

(4) Take any other action identified as trespassing under this Chapter.

(Amended 8/6/09, Resolution 2009-

580)

(ssss) "Tribal fishers" means any person a member of the Colville Confederated Tribes, who is exercising any tribal fishing right.

(Amended 8/6/09, Resolution 2009-

580)

(August 2009 version of Chapter 4-1)

(tttt) "Tribal land" means land owned in fee by the Confederated Tribes of the Colville Reservation or a tribal member and/or land held in trust by the United States for the Tribes or individual Tribal members.  
(Amended 8/6/09, Resolution 2009-580)

(uuuu) "Troll line" shall be defined as a fishing line used to drag lures or fresh bait behind a moving vessel.  
(Amended 8/6/09, Resolution 2009-580)

(vvvv) "Unprocessed wildlife" means the carcass or edible parts of any wildlife that have not yet been processed for final storage or consumption.  
(Amended 8/6/09, Resolution 2009-580)

(wwww) "Unprotected species" means any species which may be hunted or taken at any time of year in any number.  
(Amended 8/6/09, Resolution 2009-580)

(xxxx) "Usual and accustomed grounds and stations" means all those fishing places and areas where ancestral members of the Confederated Tribes fished prior to entering into Treaties or other agreements with the United States, and where today access is protected by Treaty, other agreement or aboriginal rights.  
(Amended 8/6/09, Resolution 2009-580)

(yyyy) "Waste" means the abandonment or deterioration of those portions of fish or game normally utilized for human consumption.  
(Amended 8/6/09, Resolution 2009-580)

(zzzz) "Watercraft" means any boat or other floating device of rigid or inflatable construction which is designed to carry people or cargo on the water, and which is propelled by machinery, oars, paddles, or wind action on a sail; except makeshift contrivances constructed of inner tubes or other floatable material and not propelled by machinery, personal floatation devices worn or held in hand, and other objects used as floating or swimming aids.  
(Amended 8/6/09, Resolution 2009-580)

(aaaa) "Wildlife" means all fish, birds, mammals, amphibians, reptiles, designated aquatic invertebrates and insects located on the Colville Reservation or migrating to the Colville Reservation, or available on the North Half, or off the Reservation at usual and accustomed grounds and stations, on open and unclaimed lands, or in aboriginal lands, excluding domestic animals.  
(Amended 8/6/09, Resolution 2009-580)

**NATURAL RESOURCES COMMITTEE; DIRECTOR, FISH AND WILDLIFE DEPARTMENT; MEMBERSHIP AND RESPONSIBILITIES**

**4-1-40 Director, Fish and Wildlife Department**

(a) The Business Council shall appoint or direct the appointment of a Director of the Fish and Wildlife Department who shall be responsible for:

- (1) Managing Colville tribal hunting and fishing;
- (2) Coordinating the management of tribal hunting and fishing with the tribal biological personnel and with other tribal, federal and state regulatory agencies;

(August 2009 version of Chapter 4-1)

(3) Adopting general hunting and fishing regulations subject to review and approval by the Natural Resources Committee and the Business Council, and in-season regulations as allowed under this Chapter;

(4) Wildlife restoration and enhancement efforts of the Tribes;

(5) Supervising and controlling all activities, and personnel of the Fish and Wildlife Department, enforcing all provisions of this Chapter, and any rules and regulations promulgated thereunder; except natural resources enforcement officers shall serve under the Chief of Natural Resources Enforcement.

(6) Hiring and firing pursuant to tribal policy all Fish and Wildlife Department Conservation officers, and other department personnel;

(7) Carrying out any other duties delegated under this Chapter or by the Business Council;

(8) Providing for the assembly and distribution of information to the public relating to wildlife and the activities of the Fish and Wildlife Department.

(b) The director may be removed from his position pursuant to the Tribal Plan of Operations.

**4-1-41 Natural Resources Committee; Members; Meetings**

(a) The laws of the Tribes relating to conservation and management of wildlife and recreation resources shall be coordinated by the Natural Resources Committee, which shall be appointed by the Business Council. Members shall be well informed on the subject of wildlife and the requirements for its conservation.

(b) The Business Council may remove a committee member for inefficiency, neglect of duty or misconduct in office. A decision by the business council under this subsection shall be final and shall not be subject to judicial review.

(c) Each member of the committee, while attending general or special meetings of the committee and performing official duties for the committee shall receive per diem, plus necessary travel and other expenses as provided by tribal policy. A committee member who is otherwise employed as a public officer of the Tribes shall not receive such payment. Compensation and expenses shall be paid from the Fish and Wildlife budget unless a Committee of the Business Council is serving as the Natural Resources Committee as provided by this section.

(d) In lieu of appointing a separate Natural Resources Committee, an appropriate Committee of the Business Council may serve as the Natural Resources Committee established under this section. In such case, the members of the Business Council Committee shall receive the benefits and compensation otherwise available to Council members while performing duties required under this Chapter.

**4-1-42 General Powers and Duties of the Natural Resources Committee**

(a) The Committee shall:

(1) Review rules and regulations proposed by the director of the Natural Resources Department and the director of the Fish and Wildlife Department, and where appropriate make such rules and regulations and establish such services as it deems necessary to carry out the provisions and purposes of this Chapter, subject to the approval of the Business Council;

(2) Recommend to the Business Council broad policies and long range programs for the restoration, management, preservation, and harvest of wildlife;

(3) Review rules and regulations proposed by the director, and where appropriate, establish hunting and fishing regulations, and prescribe the manner and methods which may be used in

taking wildlife, subject to the approval of the Business Council;

(4) Be responsible to see that the laws to protect game, public safety and recreation resources are enforced;

(5) Prescribe a budget for approval by the Business Council for the expenditures of all funds obtained by the Fish and Wildlife Department from appropriations, licenses, gifts and other sources which are specifically intended to be used for the preservation or propagation of wildlife.

(6) Exercise such powers and duties as are necessary to fully carry out the provisions of this Chapter, or that are delegated to it by the Business Council.

(b) Unless otherwise provided by this Chapter, any decision by the committee on a contested case proceeding under this Chapter, shall be considered final for purposes of judicial review in accordance with the administrative procedures provisions of this Code.

(Amended 8/6/09, Resolution 2009-

580)

## **FISHING, HUNTING ELIGIBILITY REQUIREMENTS**

### **4-1-70 Those Eligible to Hunt and Fish**

(a) Members; Those persons enrolled in the Colville Tribes shall be eligible to exercise fishing and hunting rights under this Chapter.

(b) Tribal members may exercise fishing and hunting rights on-Reservation, on the North Half and off-Reservation pursuant to tribal regulation.

(c) Non-members may exercise the privilege to hunt and fish on the Colville Reservation only pursuant to tribal regulation and only after first obtaining the required permit or license.

### **4-1-71 Minors; Fishing**

(a) No minor who is otherwise eligible to fish under this Chapter shall fish for commercial purposes unless:

(1) He is accompanied by a parent or guardian who is an enrolled member of the Tribes;

(2) He is the head of a household; or

(3) There is a showing of extreme hardship.

(b) The determination of whether a person is a head of household or whether there is a showing of extreme hardship sufficient to allow a minor to exercise fishing rights without being accompanied by a parent or guardian shall be made by the Committee according to procedures established in regulations promulgated under this Code. A decision of the Natural Resources Committee may be appealed to the Business Council whose decision shall be final and shall not be subject to further appeal.

(c) The committee may adopt special regulations addressing the time that minors may fish commercially in order to insure proper attendance in school, compliance with school assignment, or adequate academic performance in school.

(d) It is the duty of the parent or guardian of any minor who is to exercise fishing rights pursuant to this section to ensure compliance with this section. A parent or guardian who knowingly permits his child or ward to violate any provisions of this Chapter or regulations adopted under this Chapter shall be subject to the prescribed penalty as if the adult had committed the respective offense.

### **4-1-72 Biological Personnel**

(a) Biological personnel of the Colville Tribes may take and possess fish and game of all species for

(August 2009 version of Chapter 4-1)

scientific, management and/or enhancement purposes, Provided, that such personnel:

- (1) Obtain an identification card from the director;
- (2) Keep a cumulative record of all fish and/or game taken, which shall be produced for inspection upon request by the director;

(b) Fish taken under the authority of this section are not to be sold or used by biological personnel for personal gain, but are to be disposed of only as directed by the director.

(c) Any attempt by biological personnel to circumvent this section or to abuse the privilege granted herein shall be grounds for immediate dismissal from employment with the Tribes.

**4-1-73 Spouse Identification**

The committee may develop and issue special spouse identification cards that would serve as identification for spouses fishing or hunting on the Colville Indian Reservation pursuant to regulations adopted by the Business Council as provided by this Chapter.

**TRIBAL IDENTIFICATION, GEAR IDENTIFICATION AND REPORTING**

**4-1-100 General Provisions**

Persons eligible to exercise fishing and hunting rights under this Chapter shall, prior to the exercise of such rights, first obtain the required documents listed in this subchapter. Fishers and hunters must have the appropriate documents in their possession while:

- (a) Fishing, or hunting;
- (b) Traveling to or from fishing or hunting activity;
- (c) Engaged in the sale of fish.

**4-1-101 Tribal Identification**

A member who fishes or hunts shall utilize his tribal membership card as identification.

**4-1-102 Other Identification, Tribal Member Permits**

(a) Biological personnel authorized to take and possess fish under the provisions of this Chapter shall obtain an identification card issued by the director. Said identification card shall show:

- (1) The name, photograph and physical description of the employee;
- (2) The tribal employer;
- (3) Any other information the Business Council deems appropriate.

(b) An identification card issued pursuant to this section shall be surrendered to the director upon request, or upon termination of tribal employment.

(c) A tribal member who hunts only for personal subsistence off-Reservation shall obtain a license or tag from the department if required by regulation. The license or tag shall be issued without cost.

(d) Tribal members hunting or fishing on the Colville Reservation, or on the North Half during special hunts shall also obtain a tag or special membership permits if established by regulation adopted pursuant to this Chapter.

(e) The director may require each person exercising off-reservation fishing or hunting rights under this Chapter to also secure any other identification that may be required through any inter-tribal agreement that

the Tribes may become a party to.

(f) All special identification cards and permits issued pursuant to this Chapter (excluding tribal membership cards) shall remain the property of the Colville Tribes and shall be returned to the department upon request of the Business Council, as recommended by the director or the committee, or pursuant to Tribal Court order. The director may propose additional requirements necessary to properly manage the resource.

(g) It shall be unlawful for any tribal member to fish or hunt on or off the Reservation or on the North Half without first obtaining and having on his possession all identification required by this subchapter.

**4-1-103 Payment of all Taxes and Fee Required**

(a) No person shall be issued a license or permit, or be authorized to exercise commercial fishing rights pursuant to this Chapter until all fish taxes, required fees, and unpaid fines levied by the Colville Tribal Court then due and owing are paid to the department. The committee may approve repayment schedules.

(b) If a member contests the amount of fish tax alleged to be owing, he may appeal to the committee in accordance with the procedures for administrative appeals provided by this Code.

**4-1-104 Reporting**

(a) Any member fishing for commercial purposes shall be required to fill out separate fish receiving tickets, as distributed by or at the direction of the Tribes, for each day and each separate area fished, when such fishing results in the sale of fish to other than another tribal member.

(b) When filling out a fish ticket, each member shall be responsible for the following information if appropriate:

- (1) Date;
- (2) Total price received, and price per pound;
- (3) Gear type used;
- (4) Number and total weight of each species caught;
- (5) Management area within which the fish was caught;
- (6) Buyer to whom the catch was sold;
- (7) Fisher's name and identification card number;
- (8) Whether or not tribal tax is withheld.

(c) It is the responsibility of each fisher at the time of each fish sale, to be sure that the fish ticket is filled out completely and accurately. Improperly filled out fish tickets are in violation of this Chapter.

(d) Copies of any or all fish tickets shall be supplied to the director, or biological personnel as directed by the director.

(e) Any member who off Reservation, or on the North Half, is fishing for subsistence or ceremonial purposes, or hunting shall report to the department on a weekly basis for any week within which wildlife was taken the following:

- (1) The date fishing or hunting took place;
- (2) The area hunted or fished;

- (3) The number and species of fish or game taken.

Provided, that by special rule a member may be required to report weekly to the department their fishing activity even if they do not harvest any fish. Provided, further, a member who reports his or her catch to a field census taker need not also report the catch to the department.

**4-1-105 Registration/Identification of Fishing Boats/Gear**

(a) All vessels and fishing gear used in the exercise of commercial fishing off reservation pursuant to this Chapter shall be clearly identified as required by regulations, and this section.

(b) The committee shall determine after reviewing recommendations from the director what gear is authorized in a particular season at a particular place and for a particular reason.

(c) Unless otherwise provided in this Chapter or regulation adopted hereunder, each fisher shall only operate a single piece of gear at one (1) time. No gear shall be operated unless specifically authorized as provided in this section.

(d) Each owner of a fishing boat or operator of a particular net or other gear shall identify his gear as follows:

(1) All vessels shall have a boat identification plaque displayed in a manner visible from a distance of ten (10) yards from the vessel;

(2) All nets of whatever type shall be clearly identified and marked with the owner's name and tribal identification number and Tribe. The identification shall be at both ends of a net that is not attached to a vessel; or,

(3) On the outboard end of a net attached to a vessel. All identification shall be easily visible without having to remove the gear from the water. It shall be unlawful to operate any gear without having all identification required by this section properly attached.

**ON-RESERVATION, NON-MEMBER PERMITS**

**4-1-140 Permit Required**

(a) Except as provided under this subchapter, no person who is not a member of the Colville Tribes shall take or attempt to take any wildlife on the Colville Reservation unless at the time of taking or attempted taking he has a valid tribal permit to do so in his possession.

(b) No person taking or attempting to take wildlife on the Reservation shall fail or refuse to exhibit his permit(s) to a natural resources enforcement officer upon request.

(c) Fees and regulations to carry out the provisions of this section shall be prescribed by the committee and approved by the Business Council.

**4-1-141 Form and Contents of Permits; Duplicated Permits; Period of Validity**

(a) Permits shall be prepared by the Fish and Wildlife Department and furnished to the dealers authorized to issue permits. Permits shall be issued in the name of the Colville Tribes. Each permit shall be signed by the permittee in ink on the face thereof, and any permit not so signed is invalid. With each permit the department shall provide such tags as the committee may prescribe, which the permittee shall attach to the game animal in such a manner as is prescribed by the committee.

(b) It shall be unlawful, except as provided by the committee, for any person to obtain and sign as a permittee in any one permit period more than one original permit for the taking of each wildlife species. The director may issue a duplicate permit, provided that the person requesting such duplicate permit furnishes the information deemed necessary. A fee to be determined and published by the committee shall

be collected for each duplicate permit issued.

**4-1-142 Permit Agreement Required**

(a) All persons to whom permits are issued by the Colville Tribes shall be required to sign a PERMIT AGREEMENT before any such permit shall be valid. The PERMIT AGREEMENT shall be in the form provided by this section. The PERMIT AGREEMENT shall be signed by the applicant.

(b) Permit Agreement Form:

(1) PERMIT AGREEMENTS shall be printed on all permits and shall take the following form:

I, hereby agree, as consideration for the granting of this permit, that the following terms and conditions govern my use of the permit, my presence on the Reservation, and my use of tribal resources and services:

(A) I agree to obey all tribal and relevant federal laws and regulations.

(B) I consent to the jurisdiction of the Colville Tribal Court as the forum for the resolution of any civil disputes which arise from my use of this permit to hunt or fish on the Reservation.

(C) I understand that the permission for me to enter the Colville Reservation and to hunt or fish is conditioned on my obedience of tribal laws and regulations and that violation of such laws and regulations may make me a trespasser and may subject me to arrest by tribal officers, tribal and federal court action, expulsion from the Reservation, and seizure of property as security for payment of potential financial obligations to the Tribes.

(D) I understand that willfully using tribal resources or services contrary to the terms of tribal law or regulation constitutes theft of tribal assets and is a violation of tribal and federal law.

(E) I agree to be bound by the liquidated damages provisions of tribal law in the event that I am found liable to the Colville Tribes for violations of tribal law.

(F) Unless specifically designated, this permit does not authorize hunting or the carrying of firearms on the Colville Indian Reservation.

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

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

\_\_\_\_\_  
Date

**4-1-143 Particular Permits**

(a) Hunting permits:

(1) Permits for hunting by non-Tribal members shall be issued only pursuant to special regulations approved by the Business Council.

(2) The Business Council may approve general hunting seasons, or if required to conserve the resources or property, allocate its harvest or appropriate special hunting seasons for other game and game birds.

(3) Game hunting shall be controlled by season and area regulations developed by the Fish and Wildlife Department and approved by the Business Council for the particular species to be hunted.

(b) Fishing permits: Any non-member may purchase a fishing permit which shall entitle him to fish during



the open season of the permit year at all waters of the Reservation that are open to non-Indians. Fees and regulations, including seasons and the fishing areas to be opened, shall be prescribed by the committee and approved by the Business Council.

(1) Non-members who are married to tribal members shall not have any hunting or fishing privileges by reason of such marriage unless specifically allowed pursuant to regulations approved by the Business Council.

(2) The committee, with the approval of the Business Council, may prescribe additional regulations to implement the permit provisions of this Chapter.

**4-1-144 Duty to Open**

Nothing in this subchapter shall create a duty to allow any on Reservation non-member hunting or fishing.

**4-1-145 Sale of Permits; Bond of Permit Dealers**

(a) Hunting, fishing, and other permits shall be issued by persons designated as permit dealers by the committee. The committee may suspend or revoke a dealer's license for failure to comply with this Chapter or rules and regulations adopted under this Chapter. Prior to suspending or revoking a dealer's license the committee shall provide the dealer with notice and an opportunity for a hearing on the record as provided by the administrative procedures provisions of this Code. Notwithstanding such provisions, the decision of the committee under this section shall be final and shall not be subject to further appeal.

(b) Permit dealers may be required to furnish the Tribes a bond in an amount deemed necessary by the committee to protect the interest of the Tribes, and the premiums on such bonds shall be paid by the permit dealer.

**4-1-146 Reports and Returns by License Dealers; Penalty for Noncompliance**

Each license dealer shall by the first day of March or within thirty (30) days of a demand by the department, return to the department all unused permits. Failure to comply with the provisions of this section may result in civil and/or criminal liability.

**4-1-147 Revocation and Denial of Right to Obtain Permit: Notice**

(a) In addition to pursuing the other remedies provided by this Chapter, the director may, after notice and hearing on the record as provided by the administrative procedures provisions of this Code, suspend or revoke, for a period not to exceed five (5) years, the privilege to take wildlife of any non-member who has been found by the Tribal Court to be liable to the Tribes for:

(1) Unlawfully taking or possessing fish or wildlife;

(2) Carelessly using a firearm or other weapon;

(3) Destroying, injuring, or molesting livestock, or damaging or destroying crops, personal property, notices, signboards, or other improvements while taking wildlife;

(4) Polluting lands or waters within the Colville Indian Reservation while taking wildlife.

The decision of the director may be appealed to the committee within thirty (30) days of the rendering of that decision. The decision of the committee shall be final and not subject to further appeal.

(b) The committee shall furnish to permit dealers the names and addresses of persons whose permits have been revoked or suspended, and the periods for which they have been denied the right to secure permits.

(c) It shall be unlawful for any person to issue a permit of any kind to a person whose privilege to obtain that permit he knows to have been suspended or revoked. Any permit issued to a person whose privilege to

have that permit has been revoked or suspended shall be void.

**4-1-148 Obtaining Permit by Fraud or Assignment**

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

**4-1-149 Transportation Permits**

(a) A person may transport wildlife legally taken by another where the person actually transporting the wildlife shall have in his possession a writing signed by the person who killed the wildlife, where such writing shall include at least the following:

- (1) Name and address of the person killing the wildlife;
- (2) Total number and species taken;
- (3) Date the wildlife was taken; and,
- (4) License or permit number of person killing the wildlife.

(b) A person who lawfully takes wildlife on the Reservation and who wishes to transport the wildlife off the Reservation shall utilize and retain in his possession the hunting or fishing license used to take the wildlife. Provided, the committee may for specific species prescribe a transportation permit or tag that must be used to transport the wildlife. Transportation tags if required shall be issued without cost by the director.

**4-1-150 Shipment by Common Carrier**

(a) No person shall deliver for transportation to any common carrier, and no carrier shall transport, any wildlife except as provided under this Chapter.

(b) Unprocessed wildlife may be shipped during the open season, or within two (2) weeks thereafter, but such shipment shall not exceed the possession limit for any one species, and no more than one such possession limit may be shipped in a period of seven (7) consecutive days. When shipped, valid transportation permits as provided under this subchapter shall be firmly attached to such shipment and the shipment shall be clearly and conspicuously labelled with the name and address of the cosigner and consignee and an accurate statement of the contents of the package.

**4-1-151 Guides; Appointment; Licenses; Duties; Reports; Carrying Firearms**

(a) The director shall be responsible for issuing licenses under this section.

(b) No person shall act as a guide without first satisfying the director as to the prospective guide's qualifications to act as a guide and without having procured a permit to do so. No person under the age of eighteen (18) years shall be issued a guide permit. No person who is not a tribal member shall serve as a guide unless specifically allowed by regulation approved by the Business Council. If a licensed guide fails to comply with the provision of this Chapter or is found liable for violating any provision of this Chapter, the license may, after notice and a hearing on the record as provided by the administrative procedures provisions of this Code, be revoked by the director in addition to any other remedy provided by this Chapter for the underlying violation.

(c) Each guide shall, by the tenth (10) of January of each year, or at the earlier request of the Department, report to the department on forms provided therefor, the name and address of each person guided, the number of days the guide has been so employed, and the number and species of game animals taken. No guide permit shall be issued to any person who has failed to deliver the report to the department for the preceding permit year, or until he has met such other requirements as the department may prescribe.

(d) No person while acting as a guide shall carry firearms other than a pistol, except where authorized by

the department to protect the public safety.

(e) Regulations that authorize on Reservation game hunting may require that all non-members be accompanied by a tribally certified guide.

(f) Action by the director to either deny a permit or to revoke a permit may be taken only after a hearing on the record as provided by the administrative procedures provisions of this Code and may be appealed to the committee within fifteen (15) days of the date that the director takes action.

## **TRIBAL HUNTING AND FISHING REGULATIONS PROCEDURE**

### **4-1-180 Adoption of Regulations**

(a) Unless otherwise provided by this subchapter, the Council shall adopt annual or special regulations covering all aspects of hunting and fishing under this Chapter.

(b) In adopting regulations under this section, the Business Council shall consider all recommendations made to it by the Natural Resources Committee, the director, and the Tribal Biologist.

(c) The regulations regarding anadromous fish species shall be adopted in April of each year and shall cover the period of May 1 of each year through the April 30 of the next succeeding year, Provided, however, that formal adoption of regulations for any particular run of fish may be deferred until such time as the Business Council has adequate run strength information; Provided, further, that the regulations for any particular run are distributed to the state and any court with continuing jurisdiction over off-Reservation fishing to which the Colville Confederated Tribes is a party prior to a proposed opening of fishing as provided by federal law, or court order.

(d) The Business Council may adopt regulations for any species of fish in addition to those named in subsection (b) and for the taking of game both on or off the Reservation. If such regulations are adopted, they shall be adopted no later than thirty (30) days prior to the proposed opening; Provided, the failure to comply with the thirty (30) day requirement shall not invalidate the enacted regulation. Provided, further, such hunting or fishing seasons, and species available to be taken may be established from time to time during the year by the Business Council. The Natural Resources Committee and/or Director may make recommendations for such regulations.

(e) Notice of regulations related to hunting and fishing which are adopted pursuant to this subchapter shall be posted in a conspicuous place in Nespelem, Keller, Omak and Inchelium. The notice shall state that the regulations will be available for review at the Tribal Fish and Wildlife Department and the office of the Tribal Code Reviser. Failure to have regulations at the Code Reviser shall not affect the enforceability of the regulations.

### **4-1-181 In-season Regulations**

(a) Except as provided by this section, the director without obtaining approval from the committee or the Business Council may adopt in-season regulations relating to all aspects of hunting or fishing affecting an established season when necessary to conserve the resources, allocate the resources, or conform to applicable federal law. Such regulations may include off-Reservation in-season fishing or hunting regulations to establish special areas, season, gear, harvest limits, special ceremonial or subsistence fishing, or relating to any other aspect of fishing or hunting.

(b) The director shall notify the committee of any in-season regulations he has adopted as soon as possible.

(c) All in-season regulations shall be consistent with this Chapter, and applicable federal law dealing with off-Reservation hunting and fishing for the necessary conservation and/or equitable allocation of the resource.

(d) The committee may propose a modification to or elimination of an in-season regulation adopted by the

director by petitioning the Business Council to overrule the director.

(e) The Business Council shall resolve any dispute between the director and the committee. A challenge commenced under this section shall not affect the in-season regulations until final action by the Business Council.

(f) In-season regulations shall be effective upon their adoption or as provided in the in-season regulation, and shall be enforced:

(1) Upon service on a person either hunting or fishing under the authority of this Chapter; or

(2) After the passage of twenty-four (24) hours from the regulation's adoption whichever is earlier.

In-season regulations shall also be filed with the Code Reviser; Provided, failure to file with the Code Reviser shall not effect the enforceability of the in-season regulations.

**4-1-182 Inter-Tribal Agreements**

The director in conjunction with the committee is authorized to negotiate intergovernmental agreements relating to management, allocation, cooperative enforcement, or Treaty protection with any other Treaty tribe, tribal group, the State of Washington, or the Federal Government. No such agreement shall be binding unless approved by the Business Council.

**4-1-183 Policy Consideration**

(a) The Business Council recognizes that appropriate management and conservation of the off-Reservation fishery resource may require limiting the total member fishing boats, the type and numbers of gear authorized, the location where certain gear can be authorized, and other policy regulations. These regulations may be necessary to ensure a fair distribution of the resource and its conservation.

(b) The director shall be responsible for the development and presentation of regulations limiting the size of the tribal fishing fleet, and numbers of gear the location where certain gear can be authorized as well as other necessary regulations. All proposed fishing and hunting regulations authorized under this section shall be presented to the Natural Resources Committee for review. Proposed regulations along with any recommendations or comments from the Natural Resources Committee shall be presented to the Business Council. No regulation authorized under this section shall be implemented until approved by the Business Council. Provided, nothing in this section shall limit the director's authority to impose in-season regulations as provided by this subchapter.

(c) In consideration the need for any limitation on the growth of the tribal fleet, the Business Council shall consider the number of harvestable fish available where those fish are best harvested, potential gear conflicts, inter-tribal relationships, and the need to maximize the income of the tribal fisher.

**4-1-184 Other Regulations**

(a) Except as otherwise provided by this section, the Business Council may adopt, amend or repeal rules and regulations covering any activity or procedure under this Chapter other than those related to fishing or hunting in accordance with the administrative procedures provisions for rulemaking under this Code.

(b) The notice of the proposed rulemaking shall specify the time and place at which the Council will discuss and the public may appear and comment in person on the proposed rules and regulations. Notwithstanding the administrative procedures provisions of this Code, neither the tribal department proposing the rule nor the Business Council shall be required to accept or consider written comments or hold a public hearing on the proposed rulemaking unless otherwise determined by the Council.

**TRIBAL TAX (RESERVED)**

## GENERAL FISHING AND HUNTING PROVISIONS, PROHIBITED ACTS

### 4-1-210 Persons Responsible to Access Regulation Information

Persons entering the tribal lands of the lands of the Colville Reservation shall bear the responsibility of obtaining and/or accessing information on the regulations and rules of this Chapter and for complying with emergency measures as they are adopted, such as but not limited to, fire restrictions and emergency closures of hunting and fishing areas.

### 4-1-211 Closure

The Colville Indian Reservation and all lands and water off Reservation fished or hunted by the Colville Tribes and the North Half of the Colville Indian Reservation are closed to fishing and hunting unless specifically opened by properly adopted annual, special or in-season regulations promulgated under this Chapter.

### 4-1-212 Manner of Net Fishing

(a) All fishing authorized pursuant to this Chapter shall be done in a safe and businesslike manner.

(b) All set nets shall be lifted at least once every twenty-four (24) hour period.

(c) The use of explosive, caustic or lethal chemicals in any form is expressly prohibited in all fisheries. The use of any method of disabling or capturing fish not expressly authorized in this Chapter or by regulation is prohibited.

(d) All nets and boats must be properly lighted. All boats or other craft used in exercising tribal fishing rights shall conform to the applicable United States Coast Guard regulations. The director may develop appropriate regulations to implement this section.

### 4-1-213 Test Fishing

(a) Test fishing is permitted under the following conditions:

(1) Decision to conduct test fishery: The director shall have the power to authorize a test fishery when in his opinion such a fishery is justified. The director shall determine the type and amount of gear to be used in, and the time period and fishing area for the test fishery. There shall be no test fishery other than as directed by the director.

(2) Selection of participants in test fishery: In order to participate in a test fishery, a fisher must:

(A) Be an enrolled member of the Colville Tribes; or

(B) Be biological personnel employed by the Tribes and authorized under this Chapter to take and possess fish for scientific, management, and/or enhancement purposes; and

(C) Be familiar with both the gear type and the area for which the test fishery has been designated; and

(D) Agree to record and provide to the director all the information regarding the test fishery requested by the director.

In the event more than the number of eligible fishers necessary for the test fishery are interested in participating in said test fishery, the participants shall be chosen by a drawing conducted by the director.

(b) Responsibilities of test fishers:

(1) Test fishers shall report all information requested by the director to the director on a daily

basis. Failure to report on a daily basis constitutes withdrawal from the test fishery program. Such a withdrawal shall date from the time of the immediately preceding report of information.

(2) Fish taken in test fisheries shall not be sold for the personal profit of the fisher. Fish caught shall be sold on a tribal fish ticket; with the proceeds going to the Tribes.

(3) The test fishers shall strictly obey the gear, time and area restrictions of the test fishing program.

(4) The test fisher shall be compensated for his work at a rate set by the Business Council.

(c) Failure to Comply—Withdrawal: Failure to comply with any of the provisions of this section or any regulation adopted to implement a test fishery shall constitute withdrawal from the test fishing program. Any fishers fishing subsequent to withdrawal from the test fishery shall not be covered by the test fishing regulations of this Chapter; and shall be subject to the other provisions of this Chapter and adopted regulations.

(d) Records to be kept: The director shall maintain permanent records of all data collected in the test fisheries.

**4-1-214 Harvest Reporting**

The director may develop regulations setting out special reporting procedures or requirements related to fishing and hunting under this Chapter if such additional reporting is deemed necessary to manage and conserve the resource.

**4-1-215 Sale of Wildlife**

(a) The Colville Indian Tribal fishers are prohibited from selling fish caught while exercising fishing rights to those fish buyers declared unauthorized pursuant to this Chapter.

(b) It shall be unlawful to sell fish or game taken for subsistence or ceremonial purposes except that salmon taken for subsistence purposes may be sold to another tribal member when the purchaser intends to use the salmon for personal consumption, or the consumption of his immediate family. Unlawful sale of game or fish shall be a crime whether the game or fish was taken from the Reservation, or off the Reservation.

(c) A tribal fisher who sells fish to a person, organization or other entity other than fish buyers licensed by the Tribes, the state or other Treaty tribe shall complete a fish ticket for the sale and return the ticket to the Tribal Fish and Wildlife Department. All sales under this section shall be subject to Tribal tax under this Chapter.

**4-1-216 Accidents**

Any person who, while taking wildlife, is involved in an accident resulting in injury to any person shall:

(a) Give every possible assistance to the injured person;

(b) Immediately report the accident to the nearest law enforcement officer after giving such assistance; and

(c) Within ten (10) days file with the director a full and complete written report of such accident.

**4-1-217 Fires**

The willful or careless setting or starting of a forest fire, brush, or grass fire or other destructive fire by any person while on the Reservation is a violation of this Chapter. Provided, enforcement action under this Chapter for the violation of this section shall not relieve a person from liability under any other provision of tribal law relating to fire control.

**4-1-218 Wild Animals Depredations**

(a) Any person suffering depredation may:

(1) Exercise all reasonable measures to alleviate such damage not including injuring or killing wildlife except in cases where the offending animal poses an immediate threat of death or injury to any person;

(2) After resorting to such relief, as is provided in this subsection, file a written report with the director advising him of the damage suffered, the species of animals causing such damage and any abatement actions that have been or are being taken.

(b) Upon the filing of a report by a person suffering depredation under this section, the director shall forthwith order an investigation, report and recommendation by an employee trained in the handling of wild animal depredations. The complainant shall be informed of the results of the report and any recommended action to be taken.

(c) If removal of animals is found to be necessary to prevent further damage, the Natural Resources Committee may:

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

(2) Issue a special permit for the taking of such wildlife to the property owner suffering damage, if the director determines that the method authorized by subsection 4-1-218(a)(1) is impractical. The edible portions of all such wildlife taken by the person suffering damage shall be turned over to the director for delivery to a public institution, charitable organization or for the non-commercial use of a tribal member or tribal Indian organization; or,

(3) Direct a natural resources enforcement officer to trap, capture, or otherwise take such wildlife for removal.

(d) The natural resources enforcement officers shall provide technical advice and shall assist in the necessary anti-depredation measures established by the Natural Resources Committee.

(Amended 8/6/09, Resolution 2009-

580)

(e) Uncontrolled dogs that are pursuing, harassing, attacking or killing game animals, game birds or other protected wildlife may be taken into custody or destroyed if necessary, by any department personnel. Department personnel who take into custody or destroy a dog pursuant to this subsection are immune from civil or criminal liability arising from their actions.

(f) It shall be unlawful for any person to kill or injure any deer, elk, moose, or big horn sheep involved in a depredation or nuisance situation unless expressly authorized by this Chapter or the Business Council. Nothing in this section shall be construed as prohibiting the taking of any wildlife by persons lawfully authorized to do so by regulation or permit.

**4-1-219 Nuisance Animals**

The director may establish procedures for the abating of nuisance animals on the Colville Reservation, and/or the taking and destroying of injured animals, subject to the approval of the Natural Resources Committee. Any person who has knowledge of animals that are creating the nuisance or injured shall contact the director. The definition of "nuisance animals" shall be by regulation.

**4-1-220 Wildlife Research**

The taking of wildlife for research or data gathering purposes conducted by biological personnel may be authorized permit issued by the director of the Fish and Wildlife Department.

(August 2009 version of Chapter 4-1)

## **PROHIBITED ACTS**

### **4-1-240 Prohibited Acts**

Unless modified by rule or regulation the following prohibited acts are established.

### **4-1-241 Violations of Chapter or Regulations**

No person shall take any action which is a violation of any provision of this Chapter or any regulation adopted pursuant to this Chapter. No person shall kill, take or catch any species of bird, animal or fish in excess of the number fixed as the bag or possession limit. No person shall hunt or trap for any birds or animals within the boundaries of any closed area or fish within any closed waters.

### **4-1-242 Possession**

(a) No person shall have in his possession or under his control any unprocessed bird, animal or fish during the closed season or in excess of the bag limit, or without the required permit or tag.

(b) No non-tribal member shall be in possession of unmarked (wild) salmon, steelhead, cutthroat, and/or kokanee.

(c) Tribal members who shall take, incidental to their lawful fishing activities, unmarked (wild) salmon, cutthroat, and/or kokanee must report the species taken and date to the department.

### **4-1-243 Hunting While Intoxicated**

No person shall hunt with firearms or bow and arrow or fish while under the influence of intoxicating liquor or drugs.

### **4-1-244 Waste**

No person shall permit the edible portion of any game animal, game bird or game or food fish to go to waste after taking possession of same.

### **4-1-245 Resisting**

No person shall resist or obstruct any conservation officer or other duly authorized tribal law enforcement officer or other peace officer in the discharge of his duty while enforcing the provisions of this Chapter or other tribal regulations pertaining to hunting and fishing.

### **4-1-246 Defacing**

No person shall destroy, tear down, shoot at, deface or erase any printed matter or signs placed or posted by or under the instructions of the Colville Business Council or the committee to assist in the enforcement of tribal hunting and fishing regulations.

### **4-1-247 Shooting**

No person shall shoot any other person or any domestic livestock while hunting.

### **4-1-248 Negligent Shooting From Public Highway in the North Half**

It shall be unlawful for a Colville Tribal Member to negligently shoot a firearm or a bow and arrow from, across, or along the maintained portion of any public highway in the North Half.

(Amended 8/6/09, Resolution 2009-

580)

### **4-1-249 Weapons**

Unless otherwise authorized by law or regulation, no person:

(a) Who is not an enrolled member of the Colville Tribes, shall, possess or have in his physical control, a weapon with the bullet in the magazine or chamber within the boundaries of the Colville Indian Reservation;

(b) Shall possess or have in his physical control a weapon with the bullet in the chamber anywhere within

(August 2009 version of Chapter 4-1)



the North Half.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-250 Spotlighting**

No person shall hunt using any artificial light of any kind unless use of such light is approved by regulation for a specific hunt. No person shall hunt using any artificial light which is greater than 10,000 candle power in magnitude under any circumstances.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-251 Chumming**

No person, not a tribal member, shall place any fish, parts of fish or other substance including artificial lights into any waters for the purpose of attracting fish to a particular area in order that they may be taken.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-252 Protected Wildlife**

No person may kill, take, catch, possess, buy, barter, or exchange any animal or parts thereof, in violation of any tribal or Federal law. This section shall not apply when there is an immediate danger of serious injury or death to any person or the actor is an enrolled member of a federally recognized tribe who is acting in furtherance of traditional, religious or ceremonial purposes as may be permitted by the Business Council, unless such action is expressly prohibited by federal law.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-253 Aiding and Abetting**

No person shall counsel, encourage, solicit, request, aid, procure or abet another to commit any act prohibited under this Chapter or under any regulation of the Fish and Wildlife Department, or of the Parks and Recreation Program of the Colville Confederated Tribes.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-254 Aiding and Abetting Non-Tribal Members on North Half**

No person shall counsel, encourage, solicit, request, aid, procure or abet a non-Colville Tribal Member to commit any act prohibited under State of Washington law while hunting on the North Half.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-255 Use of Dogs**

No game animal may be taken with the aid of a dog or dogs, except as authorized by regulation.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-256 Entering Game Reserve**

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

(Amended 8/6/09, Resolution 2009-

580)

**4-1-257 Sale of Wildlife**

No person shall sell or barter for personal gain the edible portion of any game animal, game bird or game fish (except as provided by regulation or this Chapter).

(Amended 8/6/09, Resolution 2009-

580)

**4-1-258 Pollution**

No person shall while hunting or fishing under the permission of this Chapter pollute any water or lands. Provided, enforcement under this Chapter shall be in addition to enforcement provision for pollution found

(August 2009 version of Chapter 4-1)

in tribal law.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-259 Hunting From Airplanes**

No person shall use aircraft to, hunt, spot, locate, or report the location of wildlife for the purpose of hunting, or hunt any game animal on the same day they were airborne (except for a regularly scheduled commercial flight).

(Amended 8/6/09, Resolution 2009-

580)

**4-1-260 Collection of Plants for Commercial Purposes**

No person shall cut off, cut down, pull up, collect, or otherwise harvest or remove from where it occurs any naturally occurring vegetation or parts thereof for commercial purposes from any tribal lands without a valid permit issued by the department unless such person is the owner of the land from which the materials are taken or is acting with full knowledge and consent of such owner. Such permit shall specify the amount of vegetation to be collected and the time and location where such collecting may take place.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-261 Harassment of Wildlife**

No person shall harass wildlife except as provided by this Chapter or regulation.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-262 Littering**

No person, while engaged in any activity regulated by this Chapter, shall deposit upon any public or private property any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, cans, barbed wire, boards, trash, garbage, lighted material or waste substances on any place without authorization from the Tribes or the owner of the property affected.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-263 Collecting Animal Parts**

No person who is not a tribal member, shall gather or collect antlers, feathers or any other bodily parts of wildlife on the reservation without a valid permit issued by the department.

(Amended 8/6/09, Resolution 2009-

580)

(Enacted 2/20/97, Resolution 1997-125)

**4-1-264 Capturing, Holding or Possessing Wildlife**

No person shall, without a permit issued by the director, capture, hold in captivity or possess any live wildlife.

(Amended 8/6/09, Resolution 2009-

580)

**4-1-265 Planting Fish**

Unless otherwise authorized by law or regulation, no person shall introduce any fish, fish fry, or spawn in any waters within the boundaries of the Colville reservation.

(Amended 8/6/09, Resolution 2009-

580)

**TAXIDERMY**

**4-1-280 Taxidermy Licensing**

It shall be unlawful for any person to practice taxidermy commercially within the boundaries of the Reservation without having first obtained a license from the director. The issuance of a license under this section shall be in accordance with the terms and conditions prescribed by the director.

**4-1-281 Selling Mounted Wildlife**

(August 2009 version of Chapter 4-1)

A taxidermist licensed under this subchapter may sell a client's unclaimed, legally taken wildlife if:

- (a) At least two written notices of intent to sell are sent to the client;
- (b) Two months have past since completion of the mounting, tanning, processing or the end of the storage period;
- (c) The amount realized by the sale of a mount is not to exceed the original quoted price stated in writing, less any deposit received;
- (d) The sale is otherwise in compliance with other provisions regarding the sale of wildlife or parts thereof found in this Chapter.

**4-1-282 Record Keeping**

A taxidermist licensed under this subchapter shall:

- (a) Upon receiving wildlife or fish for mounting, tanning, storage or processing, record the owner's name and address, date received, location where the animal was taken, the species and number of said fish or wildlife, the quoted price for the taxidermy work and any other information as required by the department;
- (b) Tag each specimen or otherwise mark each specimen in such a way as to be readily identifiable as to ownership;
- (c) Maintain records of any unclaimed wildlife which were resold to someone other than the client from which the wildlife was originally obtained including: date of sale, amount of sale and the name and address of the person purchasing the mount;
- (d) Not transport or ship any animal or parts thereof without keeping the following record: number and kind of animal or parts shipped, the date shipped, how it was shipped and the name and address of who it was shipped to;
- (e) Maintain the records required by this section at the business address of the taxidermist for a three (3) year period.

**4-1-283 Inspection of Records and Regulations**

All records and wildlife held pursuant to this subchapter or regulations adopted pursuant to this subchapter must be open to inspection by a conservation officer or other duly authorized department employee at reasonable times.

**4-1-284 Revocation of License**

The license of any taxidermist or any employee of said taxidermist who is convicted of a violation of this subchapter or regulations adopted pursuant to this subchapter or of any tribal, state, or federal fish and wildlife law shall be subject to revocation by the director.

**IMPORTATION OF ANIMALS**

**4-1-300 Unlawful Importation of Animals**

Unless modified by rule or regulation, no person shall import to the reservation or possess or release within the boundaries of the Reservation, without first obtaining a permit to do so from the director or his designee, any live:

- (a) Animals in the family cervidae;
- (b) Animals in the subfamily caprinae except:

- (1) Domestic sheep, ovis aries
- (2) Domestic goat, capra hircus
- (c) Animals in the family of equidae except domestic horses equis caballus, domestic donkeys, equis assinus;
- (d) Animals in the family of suidea except domestic pigs, sus scrofa;
- (e) Animals in the sub family antilopinae;
- (f) Species of birds, mammals, reptiles or fish whether native or planted that are normally classified as "wildlife"; or
- (g) Any hybrid of the above listed animals.

**4-1-301 Application for Permit**

(a) The director may issue a permit under this subchapter pursuant to the conditions established by the director and once the person applying for the permit:

- (1) Provides the genus and species of the animal(s) and the number of each to be imported to the reservation or released or possessed within the boundaries of the Reservation and the name and address (es) of any persons(s) the animals were originally obtained from;
- (2) Identifies the lands on which the animals will be kept and demonstrates that such lands are secure and adequate to meet the health and social needs of the permitted animals and to protect the wildlife resources and domestic livestock production located on the reservation;
- (3) Provides proof that the applicant has sufficient skill, and experience to properly maintain and care for the permitted animals; and
- (4) Obtains a health certificate from a qualified veterinarian which certifies that the permitted animals are free from any contagious or infectious diseases and parasites. Any testing, quarantine, etc. necessary to obtain this certificate shall be done at the expense of the permittee.

(b) Issuance of a permit under this section shall authorize employees of the department or the tribal police to inspect all facilities, records, animals and other property related to the permitted operation. These inspections may take place without warrant or prior notice.

**4-1-302 Sale, Trade or Other Disposition of Permitted Animals**

No person may sell, trade, give away or otherwise dispose of any animal or parts therefrom permitted pursuant to this subchapter unless the person receiving such animals holds a valid permit pursuant to this subchapter for the species involved or as otherwise authorized by the director.

**4-1-303 Records**

Any permittee under this subchapter shall maintain accurate records which list the following:

- (a) An updated list of the genus and species of the animal(s) and the number of each imported to the Reservation or released, possessed or born within the boundaries of the Reservation;
- (b) If imported to the Reservation, the name and address(es) of any person(s) the animals were originally obtained from;
- (c) The number of each species in his possession which are sold, traded or given away live, and the name and address of any and all persons receiving those animals;

(d) The number of each species in his possession which are harvested or other wise killed and the disposition of those animals whether sold, traded or given away or otherwise disposed of, and the name and address of any persons receiving these animals or parts therefrom and the dates of such transactions.

**4-1-304 Prevention of Spread of Contagious or Infectious Disease**

Any permittee under this subchapter shall:

(a) Have a qualified veterinarian review and update the health certificate requirements of this subchapter at least once within each calendar year, on each animal permitted pursuant to this subchapter which is in the possession of the permittee or provide proof that such review and update has been conducted. Any testing, etc. required for this certificate shall be at the expense of the permittee;

(b) Monitor the health of any animal(s) in his possession which are permitted pursuant to this subchapter at all times and immediately:

(1) Consult a qualified veterinarian if any animal(s):

(A) Are known to fail to meet the certification requirements in this subchapter;

(B) Have contracted a contagious or infectious disease; or

(C) Are otherwise ill from unknown causes.

(2) Notify the director if ten (10) percent or more of the animals become ill from unknown causes;

(c) Immediately initiate any treatment necessary to prevent the spread of contagion which is prescribed by a veterinarian contacted in accordance with this section;

(d) If no treatment is available to prevent the spread of contagious disease or illness affecting any animal(s) in his possession which are permitted pursuant to this subchapter, immediately dispose of such animal(s) in a manner prescribed by a qualified veterinarian or qualified public health official in such a manner as to prevent further spread of the contagion. The cost of any treatment or disposal shall be borne by the permittee. The permittee shall notify the director of the department in writing within fifteen (15) days of any such action having been taken and shall retain record of such action for at least three (3) years. If an outbreak of contagious or infectious disease should occur and the permittee does not make adequate and timely efforts to control or eliminate the outbreak, the director may instigate appropriate treatment of the affected animals and any costs thus incurred shall be borne by the permittee.

**4-1-305 Containment of Animals**

(a) All animals permitted pursuant to this subchapter which are in the possession of the permittee shall be contained in such a manner that they are at all times under his control. Unless otherwise permitted under this subchapter, at no time shall the permittee allow any such animal(s) to leave the lands identified in the permit application, nor shall the animal(s) be allowed to mingle with wild animals of like or closely related kind found within the Reservation. Lands upon which any animal(s) permitted pursuant to this subchapter are located shall be fenced in such a manner that they cannot escape and wild or other animals off of said property cannot enter.

(b) The permittee shall recapture and, as soon as possible, return to captivity any animals permitted pursuant to this subchapter that escape or are released from containment when such release is not authorized by this subchapter. Any animal remaining at large fifteen (15) days after such escape or release shall, at the discretion of the director, be recaptured or if recapture is not feasible, destroyed. Any costs associated with recapture or disposition of permitted animals or damage to tribal resources caused by the escape of permitted animals shall be borne by the permittee.

**4-1-306 Penalties/Impoundment**

(a) In addition to any other remedy or penalty provided for a violation of this subchapter, the Tribal Court may suspend, confiscate or permanently revoke a permit granted pursuant to this subchapter and order the permittee to remove all of the animals listed under the permit from the Reservation in those cases:

- (1) Of three or more violations of this subchapter within a three (3) year period;
- (2) Where animals permitted pursuant to this subchapter are found outside of the permittee's property in violation of this subchapter;
- (3) Where the permittee is found to be maintaining a hunting reserve;
- (4) Where some or all of the animals are found to be sick and are not properly cared for as provided in this subchapter; or
- (5) Where failure to suspend or revoke the permit would be harmful to the property of the Tribes or another or the health, or safety of other animals or to Reservation residents.

(b) Natural resources enforcement officers shall have the authority to:

(1) Impound, in accordance with the procedures provided in this Code, any animal(s) permitted pursuant to this subchapter when the permittee is in violation of this subchapter and:

(A) Probable cause exists to believe that such animal(s) seriously threaten the property of the Tribes or another or the health or safety of Reservation residents or other animals and that immediate action is necessary to protect such interests from serious harm; or

(B) The permittee does not pay the penalties imposed by the Tribal Court for such violation.

(2) Sell or dispose of any impounded animal pursuant to a Tribal Court order when:

(A) The animal(s) cannot be returned to the permittee without endangering the property of the Tribes or another or the health or safety of Reservation residents or other animals and that sale or disposal is necessary to protect such interests from serious harm; or

(B) The permittee has not paid the penalties imposed by the Tribal Court within the period of time ordered by the court following impoundment.

(3) Impound and sell or dispose of any animal when the permittee does not remove the animal(s) from the Reservation when so ordered by the Tribal Court.

**4-1-307 Hunting Prohibited**

It shall be unlawful to hunt or to allow hunting of animals permitted pursuant to this subchapter as a method of harvesting of such animals.

**GENERAL ENFORCEMENT PROVISIONS**

**4-1-320 Notice**

(a) Signs shall be posted conspicuously along the boundaries of the Reservation and at all roadway points of entry putting the public on notice that:

- (1) Permission to enter is conditional on consent to tribal jurisdiction;
- (2) Permits are required for hunting or fishing;
- (3) Violators of tribal regulations are trespassing and are subject to tribal and federal sanctions;

(4) Visitors must inquire locally for permits and information.

(b) The lack of the signs required by this section or the lack of knowledge of such signs shall not be a defense in any action brought in the name of the Tribes to enforce this Chapter.

**4-1-321 Civil Actions**

Except as otherwise provided in this Chapter, all violations of this Chapter or regulations promulgated under this Chapter shall be considered civil in nature, and shall be adjudicated as provided by the Infractions; Field Bonds; Other Civil Violations and Forfeitures Chapter under this Code.

**4-1-322 Tribal Members; Criminal Sanctions; North Half and Off-Reservation Fishing, etc.**

(a) In any case in which a member has committed a violation of this Chapter or regulation relating to off-Reservation fishing or hunting, or fishing or hunting on the North Half or commercial fishing taking place at any location on or off the Reservation, the violation shall be charged as a criminal offense under tribal law.

(b) Any natural resources enforcement officer who willfully fails to enforce this Chapter, or a lawful rule, regulation, or order promulgated under this Chapter shall be guilty of a Class A offense.

(c) Criminal proceedings under this Chapter shall be governed by the Tribal Law and Order Code dealing generally with criminal offenses and procedures, unless specifically modified by procedures as set out herein.

(d) The director shall prepare for the approval of the Natural Resources Committee and the Business Council a recommended bail schedule for each violation of this Chapter or regulation sanctioned as a criminal offense. The bail shall be the presumed fine, provided that the Tribal Court shall retain its discretion to impose a different penalty if warranted or to impose imprisonment in addition to or in lieu of a fine unless otherwise provided by this subchapter. The Business Council may, but need not, utilize the Liquidated Damage Amount as determined in the procedures for infraction violations under this Code for similar on Reservation violations of this Chapter to apply to as the bail schedule for off-Reservation, or North Half violations. The bail schedule produced by the director or penalty imposed by the Court under this subsection shall be consistent with the sentencing guidelines provided by this section.

(e) Any person who has entered a guilty plea to or has been convicted by the Colville Tribal Court of a criminal violation of this Chapter or any regulation, rule or order promulgated thereunder, shall, unless a different penalty or punishment is specifically provided by this Chapter for that violation, be sentenced as follows:

(1) For the first violation or violations arising out of the same conduct, the member shall, for each violation, be fined up to five-hundred dollars (\$500.00), imprisoned for up to thirty (30) days or both and shall have all wildlife or the value thereof in the possession of the defendant which is connected to the crime forfeited to the Tribes;

(2) For a second violation or violations arising out of the same conduct, within the same fishing or hunting season the member shall, for each violation, be fined up to one-thousand dollars (\$1,000.00), imprisoned for up to six (6) months or both, lose his fishing or hunting privilege for up to six (6) months, and shall have all wildlife in the possession of the defendant which is connected to the crime or its value forfeited to the Tribes;

(3) For each additional violation or violations arising out of the same conduct, within the same fishing or hunting season the member shall for each violation, be fined up to five-thousand dollars (\$5,000.00), imprisoned for up to one (1) year, lose his fishing or hunting privileges for up to five (5) years and have all fish or game in the possession of the defendant which is connected to the crime or its value forfeited to the Tribes.

(Amended 8/6/09, Resolution 2009-

(August 2009 version of Chapter 4-1)

**4-1-323 Criminal Citations**

(a) The Business Council may establish a list of criminal violations under this Chapter for which the natural resources enforcement officer shall issue the defendant a citation in lieu of detention as provided by the criminal procedures provisions of this Code and, if convicted, the defendant shall be sentenced to the bail amount determined under this subchapter and may not be sentenced to imprisonment or any other penalty.

(b) If issued a citation under this section, the defendant may post and forfeit the bail amount indicated on the citation in lieu of appearing in court. If the defendant chooses to use the "post and forfeit" procedure, he shall deliver the bail amount, in the form of check or money order, along with the citation by mail or in person to the clerk of the Tribal Court within the time limits for his court appearance provided on the citation. No further proceedings under this Chapter shall be initiated against any person who pays the bail as provided in this subsection.

(c) If the defendant does not use the "post and forfeit" procedure under this section he shall appear in Tribal Court on the date listed in the citation. The court may award reasonable attorney's fees and costs to the prevailing party in any proceeding held under this section.

(d) Nothing in this section shall affect the issuance of a citation as provided by the criminal procedures provisions of this code for any criminal offense not identified as provided in subsection (a). Nor shall this section effect the prosecution of or penalty imposed for such violation.

**4-1-324 Demand for Bond**

(a) If a defendant who is issued a criminal citation under this subchapter:

- (1) Refuses to sign the citation;
- (2) Cannot be, or refuses to be, identified; or
- (3) Is not a permanent resident of the Reservation; and

(b) If the law enforcement officer determines that:

- (1) Seizure of the defendant's property is necessary to secure the important tribal interest of guaranteeing the presence within tribal jurisdiction of sufficient assets of the defendant to secure payment of restitution to the Tribes for any damages determined by the court pursuant to the criminal procedures provisions of this Code to have resulted from criminal violation of this Chapter; and
- (2) There is a need for prompt action because it is likely that the defendant will leave the Reservation and the jurisdiction of the Colville Tribes with his property and not return, then, in addition to any other remedies provided by this Code and in accordance with the Field Bond procedures of Chapter 2-3 of this Code as presently constituted or hereafter amended, the officer may demand that the defendant post a bond in an amount equal to the sum of the bail for which he could be found liable by the Tribal Court pursuant to the criminal procedures provisions of this Code for the violation(s) the officer has alleged in the citation.

**4-1-325 Disposition of Fees, Penalties and Damages: Report**

All fees resulting from the sale of permits by the Fish and Wildlife Department and its agents, and all fines, costs, monies, penalties or damages collected for violations of this Chapter or regulations promulgated thereunder shall be deposited in a special Fish and Wildlife Fund and shall be available for expenditure pursuant to a Business Council approved budget in connection with the conservation, restoration and protection of the wildlife and recreation resources of the Colville Indian Reservation the management of off-Reservation hunting and fishing and for Tribal Court Administration of this Chapter.



**4-1-326 Enforcement/Right of Entry in Course of Duty**

(a) All natural resources enforcement officers shall have the authority and the duty to enforce the provisions of this Chapter and regulations adopted thereunder.

(b) Any authorized assistants, employees, agents, appointees or representatives of the Tribe may, in the course of their inspection, enforcement and/or management duties as provided for in this Chapter, enter upon any lands, real estate, waters or premises except the dwelling house or appurtenant buildings on the Reservation whether public or private and remain thereon while performing such duties. In no event other than an emergency such as fire fighting shall motor vehicles be used to cross a field customarily cultivated, without prior consent of the owner. None of the entries herein provided for shall constitute trespass.

**4-1-327 Warrants, Subpoenas and Service of Process**

Any natural resources enforcement officer may, in addition to exercising any other powers granted by this Chapter:

(a) Execute warrants issued for the arrest of violators of this Chapter;

(b) Execute search warrants issued by the Tribal Court or any other court in matters arising under this Chapter;

(c) Serve subpoenas or other legal documents issued in matters arising under this Chapter.

**4-1-328 Searches and Seizures**

(a) Any natural resources enforcement officer may, without a search warrant, search any aircraft, watercraft, vehicle, box, game bag, locker, backpack, bedroll, sleeping bag, or other container or package if the officer has probable cause to believe that wildlife or parts thereof taken in violation of this Chapter or the instrumentalities of such illegal taking are contained therein.

(b) This section shall not be construed to permit the warrantless search of any non-mobile dwelling house (including mobile/modular homes) or any outbuilding within the enclosed land surrounding it.

(c) Any natural resources enforcement officer may inspect all wildlife or parts thereof taken, possessed, or transported on the Colville Reservation, and may seize as evidence all wildlife which such officer has probable cause to believe has been taken, possessed, or transported in violation of this Chapter and any

object which the officer has probable cause to believe has been used as the instrumentality of such illegal taking, possession, or transportation.

(d) Upon issuance of an infraction notice or criminal citation or the arrest of the defendant, the conservation officer shall retain all wildlife in the possession of the suspected violator.

(e) Wildlife seized under this section may be disposed of in such a manner as is provided by the provisions for forfeiture under this Code. Provided that any such wildlife may be disposed of, sold, preserved or used for food purposes as necessary to prevent loss or spoilage.

(f) If the Tribal Court determines that the suspected violator has not violated this Chapter or regulations adopted hereunder, the seized wildlife shall be returned if possible. If the wildlife in question has been disposed of prior to such determination the department shall pay to the person from whom the wildlife was seized an amount equal to the market value of the wildlife at the time of seizure. Such payment shall be from the special fish and wildlife fund established pursuant to this Chapter. When lawful and in lieu of the payment of market value under this section, the person from whom the wildlife was seized may elect to obtain a special permit authorizing him to take additional wildlife or otherwise replace the items seized.

(g) The director shall prepare a report of all wildlife and devices seized by the natural resources enforcement officer showing a description of the items, the person from whom they were seized, if known,

and the disposition of the items. This report shall be presented to the committee annually and kept by the department. All money derived from the sale of any seized property shall be deposited in the department fund.

**4-1-329 Representation of the Tribes in Actions Arising Under this Chapter**

The Tribal Prosecutor, the natural resources enforcement officer or, in the case of conflict of scheduling or interest, such other counsel for the Tribes as the Business Council may designate, shall represent the Tribes in all actions arising under this Chapter to which the Tribes is a party, whether such actions are civil or criminal.

**4-1-330 Trespassing**

Violation of this Chapter by nonmembers shall be considered immediate revocation of permission to enter the Reservation and may render the violator a trespasser. It shall be unlawful for any nonmember to trespass on the Colville Reservation.

**4-1-331 Federal Prosecution**

(a) Nothing in this Chapter shall be deemed to preclude the federal prosecution under 18 U.S.C. 1165 of nonmembers who trespass on the Reservation. Any natural resources enforcement officer or the prosecutor may follow the procedure provided by applicable law to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided for by this Chapter.

(b) This Chapter has been enacted to protect the resources of the Colville Tribes, and the taking or using of tribal property or services contrary to the terms of this Chapter constitutes theft of tribal assets. Nothing in this Chapter shall be deemed to preclude federal prosecution of violators under 18 U.S.C. 1163 for theft of tribal assets or any other federal law designed to protect tribal wildlife or other natural resources. Any natural resources enforcement officer may follow the procedure provided by tribal law to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided for by this Chapter.

**4-1-332 Expulsion**

Nothing in this Chapter shall be deemed to preclude the use of the remedy of expulsion of nonmembers for violation of this Chapter and any natural resources enforcement officer or other appropriate official may follow the procedure provided by tribal law to initiate an action for expulsion in addition to or in lieu of any other enforcement procedure provided for by this Chapter.

**4-1-333 Loss of Fishing and Hunting Rights—Members**

(a) A member who has been convicted of or has pleaded guilty to three criminal offenses during a three (3) year period may in addition to any sentence imposed by the court as a result of any of the convictions have his privilege of exercising fishing or hunting rights partially or entirely revoked for a period not to exceed twenty-four (24) months.

(b) Except as otherwise explicitly provided by this Chapter, the Business Council shall have the exclusive right to revoke a member's privilege to exercise fishing or hunting rights pursuant to this section. The director or the Natural Resources Committee may make recommendations on whether to take action under this section.

(c) In the event that pursuant to this section, the Business Council is considering whether to revoke a member's privilege to exercise fishing or hunting rights, it shall cause notice to be delivered by personal service to such member. The notice shall be delivered at least fifteen (15) days prior to a council meeting called to determine the case.

(d) The notice required by this section shall contain the following:

(1) A clear statement that the Business Council will consider whether to revoke the offenders

privilege of exercising fishing or hunting rights and that the privilege may be revoked for up to twenty-four (24) months;

(2) A statement of the basis for the proposed action including a list of the convictions involved;

(3) The date that a hearing before the council will be held to consider the case;

(4) A statement that the member has the right to appear before the council, to present evidence, to call witnesses and to be represented by a spokesperson, at his own expense.

(e) The Business Council shall set a date certain to consider whether to revoke a member's privilege of exercising fishing or hunting rights. In making its determination the Business Council shall consider the nature and seriousness of the convictions involved, and the impact of the violations on the conservation of the resources, allocation, or intergovernmental relations.

(f) If the Business Council finds that violations were serious, significantly affected the conservation of the resource, allocation, or intergovernmental relations, then it may revoke the member's privilege of exercising fishing or hunting rights. In lieu of revoking a member's privilege the Business Council may impose a plan on the member designed to insure that there are no further violations. A member who fails to comply with a plan established under this section shall be subject to having his privilege revoked as if the plan had not been imposed.

(g) A decision to revoke a member's fishing or hunting right may be appealed to Tribal Court by filing a complaint in the same manner as any civil action.

**4-1-334**

**Loss of Hunting Privileges—Large Game**

In addition to and notwithstanding other penalties allowed by law, a member who has been convicted of or has pleaded guilty to a large game violation(s) shall be subject to the loss of his or her hunting privileges in the following manner:

(a) First large game offense: Loss of hunting privileges for one (1) year;

(b) Second large game offense: Loss of hunting privileges for two (2) years;

(c) Third or more large game offense: Loss of hunting privileges for his or her lifetime.

(Enacted 6/19/03, Resolution 2003-406)  
(Certified 6/27/03)

**BOATING AND WATER USE ACTIVITIES**

**4-1-360**

**Application**

The rules set into herein apply to Lake Roosevelt, all boundary waters of the Colville Reservation and all water bodies on the Reservation.

**4-1-361**

**Inspection**

(a) Natural resources enforcement officer may at any time stop and/or board a vessel to examine documents, licenses or permits relating to the operation of the vessel, and to inspect such vessel to determine compliance with regulations pertaining to safety equipment and operation.

(b) A natural resources enforcement officer who observes a vessel being operated without sufficient lifesaving or firefighting devices, or in an overloaded or unsafe condition, as defined in United States Coast Guard or this subchapter, may direct the operator to take immediate and reasonable steps necessary for the safety of those aboard the vessel, including but not limited to directing the operator to:

(1) Correct the hazardous condition immediately;

- (2) Proceed to a mooring, dock, or anchorage; or
- (3) Suspend further use of the boat until the hazardous condition is corrected.

**4-1-362 Prohibited Operations**

The following activities are prohibited under this Chapter:

- (a) Operating a vessel, or knowingly allowing another person to operate a vessel, in a reckless or negligent manner, or in a manner so as to endanger or likely to endanger any person or property. It shall be deemed a per se violation of this section to operate a vessel while under the influence of alcohol or controlled substance or in a designated swimming area.
- (b) Operating a vessel when under the influence of alcohol or controlled substance.
- (c) Failing to observe restrictions established by a regulatory marker.
- (d) Operating a vessel more than five (5) mph or creating a wake in areas so designated by signs and/or buoys.
- (e) Operating a vessel within one hundred (100) feet of a diver's marker, downed water skier or swimmer.
- (f) Harassing, while operating a motorized vessel, individuals lawfully engaged in activities on tribal waters or shorelines.
- (g) Operating a vessel in an area marked and designated as a swimming area.
- (h) Allowing a person to ride on the gunwales, transom, or on the decking over the bow of a vessel propelled by machinery when operated in excess of five (5) mph; Provided, however, that this provision shall not apply under the following circumstances:
  - (1) When that portion of the vessel was designed and constructed for the carrying of passengers safely at all speeds;
  - (2) When the vessel is being maneuvered for anchoring, mooring or casting off moorings.
- (i) Attaching a vessel to or interfering with a marker, navigation buoy or other navigational aid.
- (j) Using trailers to launch or recover vessels, except at designated launching sites.
- (k) Operating a vessel at a speed greater than that which will permit the operator to bring the vessel to a stop to avoid injury to persons or property. The operator of a vessel is responsible for its wake at all times.
- (l) Overloading a boat beyond its safe carrying capacity rating, taking into consideration weather and other normal operating conditions.
- (m) Capacity plates are required on all boats less than twenty (20) feet in length constructed on or after November 1, 1972. Capacity plates state the boat maximum weight capacity, maximum persons capacity and for outboard powered boats, the maximum horsepower. Exceptions to this requirement are sailboats, canoes, kayaks, and inflatable boats.

**4-1-363 Personal Floatation Device**

- (a) Personal Floatation Device (PFD) requirements for recreational vessels under sixteen (16) feet: All boats less than sixteen (16) feet in length and all canoes and kayaks, must have one TYPE I, II, III, or IV PFD of a suitable size for each person on board; including water skiers being towed by the vessel.

(b) PFD requirements for recreational vessels sixteen (16) feet and over: All boats sixteen (16) feet or over in length must have one TYPE I, II, III (wearable) PFD of a suitable size for each person on board; including water skiers being towed by boat. Also one TYPE IV (throwable) PFD must be aboard each boat. Canoe and kayak boats are not required to have a TYPE IV PFD All PFD's must be U.S. Coast Guard approved, in serviceable condition, and of an appropriate size for the person who intends to wear it.

(c) Children twelve (12) years and under are required to wear Coast Guard approved life jackets:

- (1) On boats less than 19 feet in length;
- (2) Whenever a vessel is underway;
- (3) When on an open deck or in an open cockpit;
- (4) On any waters of the Reservation and boundary waters.

**4-1-364 Fire Extinguisher**

(a) All motorboats less than twenty-five (25) feet in length shall be equipped with one (1) U.S. Coast Guard approved Type B-1 fire extinguisher.

(b) All motorboats twenty-six (26) feet in length to less than forty (40) feet in length shall be equipped with at least two (2) U.S. Coast Guard approved Type B-1 fire extinguishers or one (1) U.S. Coast Guard approved Type B-11 extinguisher.

(c) All motorboats forty (40) feet to not more than sixty five (65) feet in length shall be equipped with at least three (3) U.S. Coast Guard approved Type B-1 fire extinguishers or one (1) U.S. Coast Guard approved Type B-11 fire extinguisher.

**4-1-365 Additional Safety Equipment**

Every motorboat:

(a) Sixteen (16) feet or over in length shall be equipped with an efficient whistle or other sound-producing appliance;

(b) Shall have two or more ventilators with cowls or the equivalent capable of removing gases from bilges in any compartment containing gasoline engines or gasoline tanks. Motorboats so constructed as to have the greater portion of the bilges under the engine and fuel tanks open and exposed to the natural atmosphere at all times are not required to be fitted with such ventilators;

(c) Shall have the carburetor of any inboard gasoline engine equipped with a device for arresting backfire. Such device shall be of the type approved by the Commandant, U.S. Coast Guard;

(d) Shall have the exhaust to every internal combustion engine used on any motorboat effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner.

**4-1-366 Navigation Lights**

(a) All non-motorboats anchored or underway from sunset to sunrise or at such times as vision is less than five hundred (500) feet shall be equipped with a hand lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent a collision.

(b) All motorboats less than twenty six (26) feet in length underway from sunset to sunrise or at such a time as vision is less than five hundred (500) feet shall be equipped with the following lights:

- (1) One (1) white light aft to show all around the horizon (32 points in the compass or 360 degrees);

(2) One (1) combination light on the fore part of the vessel lower than the white light aft, showing a green light to the starboard and a red light to the port side of the vessel, each showing ten (10) points of the compass or 112.5 degrees.

(c) All motorboats twenty six (26) feet to not more than sixty five (65) feet in length underway from sunset to sunrise or at such times that vision is less than five hundred (500) feet shall be equipped with the following lights:

(1) One (1) white light as far forward as possible to show an unbroken light twenty (20) points of the compass or two hundred and twenty five (225) degrees with ten (10) points or 112.5 degrees on each side of the vessel;

(2) One (1) white light aft to show all around the horizon (32 points of the compass or 360 degrees) and higher than the white forward;

(3) One (1) red light on the port side and one (1) green light on the starboard side showing ten (10) points on the compass or three hundred and sixty (360) degrees with a screen installed to prevent lights from being seen across the bow.

(d) Every white light required in this section shall be carried on the centerline of the vessel, except that the all around white light aft on a motorboat of less than twenty-six (26) feet in length may be carried off the centerline.

All motorboats may display in lieu of this section navigation lights required by the International Rules of the Road.

**4-1-367 Water Skiing**

(a) The towing of person by vessels is prohibited, except in designated waters.

(b) Where towing is authorized, the following are prohibited:

(1) Towing between the hours of sunset and sunrise;

(2) Towing a person who is not wearing a Coast Guard approved personal floatation device;

(3) Towing or being towed in channels or within five hundred (500) feet of areas designated as harbors, swimming beaches, or mooring areas, or within one hundred (100) feet of a person fishing or swimming or diver's marker. Skiers must be picked up by a vessel before coming within one hundred (100) feet from the shoreline in the process of landing.

(4) On interior lakes towing or being towed in channels or within one hundred (100) feet of areas designated as harbors, swimming beaches, or mooring areas, or within one hundred (100) feet of a person fishing or swimming or diver's marker. Skiers must be picked up by a vessel before coming within one hundred (100) feet of shore; provided, when safe, the skier and the towing vessel may come within less than one hundred (100) feet from the shoreline in the process of landing.

(c) A vessel which has in tow a person or person shall have at least an operator and an observer. The observer shall continuously observe the person or persons being towed and shall display a flag immediately after the towed person or persons fall into the water, and during the time preparatory to skiing while the person or persons are still in the water. Such flags shall be a bright red or brilliant orange color, measuring at least twelve (12) inches square mounted on a pole not less than twenty four (24) inches long and displayed as to be visible from every direction.

**4-1-368 Age Requirements to Operate Motorboat**

(a) It shall be unlawful for a minor under the age of sixteen (16) years to operate a motorboat, powered by an engine of ten (10) horsepower or more, unless accompanied by a person who is legally capable of operating such motorboat.

(b) It shall be unlawful for a minor ten (10) years of age or under to operate a motorboat in excess of four (4) horsepower.

(c) It shall be unlawful for the owner of a motorboat or the person having charge of a motorboat to permit a minor to operate a motorboat in violation of subsections (a) and (b) above.

**4-1-369 Duty of Operator Involved in Collision, Accidents, or Other Casualty—Immunity from Liability of Person Rendering Assistance**

(a) Accidents: All incidents involving an accident, collision, fire injury, or other casualty shall be reported to the Parks & Recreation Program within twenty four (24) hours. Filing this report satisfies applicable National Park Service accident report requirements. Filing shall be made to any natural resources enforcement officer or National Park Ranger, or to the Parks & Recreation Program, or the National Parks Service Office.

(b) The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or person aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Assistance rendered under this section shall not be evidence of the liability of such operator for the collision, accident, or casualty. The operator shall also give his name, address, and identification of the operator's vessel to the Parks & Recreation Program, natural resources enforcement officer, and the National Park Service if the accident, collision or other casualty occurred on Lake Roosevelt and any person injured and to the owner of any property damaged. These duties are in addition to any duties otherwise imposed by law.

(c) Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act of omission providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.

**4-1-370 Motorboats Crossing**

(a) Motorboats Crossing: When two (2) motorboats are crossing so as to involve risk of collision, the vessel which has the other on their starboard side shall keep out of the way of the other.

(b) Sailing Vessel Right of Way: When a motorboat and a sailboat are proceeding in such a direction as to involve risk of collision, the motorboat shall keep out of the way of the sailboat, except when the sailing vessel is overtaking the motorboat from behind.

(c) Privileged Vessel Duty: Whenever, under this subchapter, one of the two vessels is to keep out of the way, the other is to maintain her course and speed.

**4-1-371 Overtaking Vessels**

(a) When two motorboats are running in the same direction and the vessel astern desires to pass, it must give the sound signal: two (2) short horn blasts to pass on the port side and one (1) short horn blast to pass on the starboard side.

(b) If the course ahead is not safe for passing, the stand-on (privilege) vessel, shall indicate so by sounding five or more short rapid horn blasts. This danger signal must be used on both inland and international waters.

(c) At any time when there is danger of collision and conditions prevent immediate compliance by either vessel with the other vessel's signals, the danger signal shall be sounded, and both vessels shall be slowed or stopped, until signals for passing safely are sounded and understood.

**4-1-372 Right of way—Fishing Vessels**

Vessels underway shall keep out of the way of sailboats or boats fishing with nets, lines, trawl, beach seines or fish weirs or platforms. This section shall not give to any vessel or boat engaged in fishing the right of totally obstructing a channel used by vessels other than fishing vessels such that other vessels are denied passage, unless permitted by tribal regulations implementing the Tribes fishing rights.

**4-1-373 General Prudential Rule**

In obeying and construing this subchapter, due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the normal navigation rules in order to avoid immediate danger.

**4-1-374 Shooting from a Boat**

No person will be allowed to hunt or shoot from a boat unless said person has a tribal hunting permit or is enrolled in the Colville Tribes, and then only when the boat is not under power and all forward momentum is stopped.

**4-1-375 Garbage**

(a) It shall be unlawful for any person, to throw or discard into the waters any waste, debris, refuse, oil, garbage or other fluids or solid materials which in any manner tend to pollute said water or shore.

(b) The prohibition in subsection (a) above shall apply to all persons on the shore, all persons on a watercraft, and all persons on a structure extending onto a waterway.

**4-1-376 Trespassing and Vandalism**

The following are prohibited:

(a) Trespassing entering or remaining in or upon personal property or real property of the Colville Confederated Tribes located in that portion of the Indian Zone located within the Lake Roosevelt not open to the public, except with the express invitation or consent of the Colville Confederated Tribes;

(b) Destroying, injuring, defacing, or damaging personal property or real property of the Colville Confederated Tribes.

**4-1-377 Swimming**

(a) The following are prohibited:

(1) Swimming or bathing in locations designated as closed;

(2) Swimming from vessels which are underway, except in circumstances where a capable operator is on board and all propulsion machinery is off and/or sails are furled.

(b) The natural resources enforcement officer may prohibit the use of floatation devices, glass containers, kites, or incompatible sporting activities within locations designated as swimming beaches.

(c) A parent or adult guardian must be present when preschool-aged children are on the beach or in the water of designated swimming beaches and must supervise the children's activity. Voice and visual contact must be maintained with the child.

**4-1-378 Fires**



(a) It shall be a violation of this Chapter to engage in the following activities:

- (1) The willful or careless setting or starting of a forest fire, brush, grass fire or other destructive fire;
- (2) Failure to maintain a campfire;
- (3) Setting a campfire in an area where fires are prohibited by any person while on the Reservation.

(b) Enforcement action under this Chapter for the violation of this section shall not relieve a person from liability under any other provision of tribal or federal law relating to fire control, nor from liability for any damage caused.

(c) Fires are only permitted as provided by regulation adopted by the Colville Tribal Business Council.

(d) Leaving a fire unattended is prohibited.

(e) Throwing or discarding lighted or smoldering material in a manner that threatens, causes damage to, or results in the burning of property or park resources, or creates a public safety hazard.

(f) It is unlawful to violate any fire restrictions placed on an area by the Parks & Recreation Program or the BIA Fire Control Department.

**4-1-379**

**Property**

(a) The following are prohibited:

- (1) Abandoning property;
- (2) Leaving property unattended for longer than twenty four (24) hours, except in locations where longer time periods have been designated or in accordance with conditions established by the Parks & Recreation Program;
- (3) Failing to turn in found property to the Parks & Recreation Program manager or natural resources enforcement officer within seventy-two (72) hours.

(b) Impoundment of property: Property determined to be left unattended in excess of an allowed period of time, as determined by regulation, may be impounded by the Parks & Recreation Program manager or natural resources enforcement officer.

(c) Unattended property that interferes with visitor safety, orderly management of the park area, or presents a threat to park resources may be impounded by the Parks & Recreation Program manager at any time.

(d) Impounded property shall be inventoried to determine ownership and safeguard personal property.

(e) The registered owner is responsible and liable for charges to the person who has removed, stored, or otherwise disposed of property impounded pursuant to this section; or the Parks & Recreation Program manager may assess the registered owner reasonable fees for the impoundment and storage of property impounded pursuant to this section.

(f) Disposition of Property:

- (1) Property impounded pursuant to this section shall be deemed abandoned property unless claimed by the owner or an authorized representative thereof within sixty (60) days. The sixty (60) day period shall begin to run from the earliest of either:

(A) the time that the Parks & Recreation Program notifies the rightful owner of the property; or

(B) if the owner cannot be identified, the time the property was placed in the custody of the Parks & Recreation Program manager.

(2) The finder may claim the abandoned property.

(3) Abandoned property still in the custody of the Parks & Recreation Program after ninety (90) days shall be disposed of in accordance with this subchapter at the cost of the owner.

**4-1-380 Prohibition of Intoxicants/Firearms—Designated Locations**

(a) No person shall possess intoxicating liquors while present on those water bodies and associated shorelines where such possession is prohibited by resolution of the Business Council and the Tribal Law and Order Code.

(b) No person shall possess a firearm while present at those locations where such possession is prohibited by resolution of the Business Council and the Tribal Law and Order Code.

(c) Any person in violation of this section shall be subject to a civil penalty of not more than \$500 for each such violation.

(d) Any individual using the shoreline of any waterbody where possession of intoxicating liquors or firearms is prohibited by resolution of the Business Council, by virtue of their presence on said shoreline consents to a search of their personal property by any natural resources enforcement officer or law enforcement officer to determine compliance with the provisions of this section. Any contraband discovered in the course of said search may be immediately seized by the officer for use as evidence in an enforcement action under this Chapter and subsequent disposal.

(e) The term "Shoreline " as used in this section shall include public and tribal lands adjacent to any body of water regulated by this Chapter (whether above or below the ordinary high water mark), including but not limited to beaches, parking lots, and picnic areas.

**TRAIL AND OFF-ROAD USE**

**4-1-410 Purpose**

The primary purpose of this subchapter is to protect and regulate the use of lands, waterways, archeological sites and wildlife habitat within the boundaries of the Colville Reservation. It is the policy of the Colville Tribes to manage, govern, preserve and protect persons, property, and natural and cultural resources within the boundaries of the Reservation.

**4-1-411 Penalties**

Persons of all ages are subject to this subchapter. For children under sixteen (16) years of age who are found to have violated one or more provisions of this subchapter, the adult directly responsible for supervision of the child will be subject to the prescribed penalty as if the adult had committed the offense.

**4-1-412 Off-Road Vehicles**

Off-road vehicles, unless otherwise restricted, may be operated within the boundaries of the Colville Reservation on dirt (not gravel) roads (including county dirt roads), logging roads and unimproved tribal roads. Snowmobiles, unless otherwise restricted, may be operated on snow-covered, unplowed, nonhighway roads.

**4-1-440 Repealed**

**4-1-441 Member/Non-member ORV Use**

(a) Any tribal member, while engaged in motorized ORV use on the Reservation, shall produce his tribal membership card if requested for identification purposes by a natural resources enforcement officer.

(b) All lands on the Reservation shall be closed to unauthorized motorized ORV use by non-tribal members with the exception of parents, spouses and children of enrolled members of the Colville Confederated Tribes when the tribal member is present. Provided that the Parks & Recreation Program manager may allow or restrict non-member ORV use by regulation adopted pursuant to this Chapter.

(c) Any adult member eighteen (18) years old or older shall be allowed up to two non-member guests when snowmobiling.

**4-1-442 Rules and Regulations**

No person shall operate an ORV in violation of any rule or regulation conditioning the use of an ORV.

**4-1-443 Area Closures**

The Parks & Recreation Program manager shall have the authority to determine areas at risk of harm by any type of ORV use or areas requiring closure for any other reason, and in consultation with the Fish & Wildlife Program manager, shall make recommendations to the Natural Resources Committee regarding areas to be designated as closed to certain or all ORV use. Areas shall be designated closed to certain or all ORV use only upon approval by the Business Council.

**4-1-444 Prohibited Acts**

(a) It is unlawful for any non-member to operate an ORV on the Colville Reservation unless he or she is an employee of the Colville Confederated Tribes operating said vehicle in the course of his or her employment or unless exempted by any other section of this Chapter. Said employees shall obtain a permit from the Colville Tribal Parks & Recreation Program.

(b) It is unlawful for any person to operate an ORV as follows:

- (1) While the operator is eighteen (18) years of age or younger and not wearing a safety helmet which meets the U.S. Department of Transportation standards for street motorcycle helmets;
- (2) Throw or discard any waste, debris, refuse, oil, garbage or other fluids or solid materials which in any manner tends to pollute the natural environment while operating said ORV;
- (3) In such a manner as to endanger the life or property of another;
- (4) Without a lighted headlight and taillight between the hours of dusk and dawn or when visibility is less than five hundred (500) feet;
- (5) Without an adequate breaking device;
- (6) Without a spark arrester device that prevents hot carbon from escaping the ORV;
- (7) Without an adequate operational muffling device that limits exhaust noise to 105 decibels at 20 inches from the exhaust exits when the vehicle is stationary and the engine RPM's are at one-half the manufacturer's allowable maximum (red line) RPM's (RPM's = revolutions per minute);
- (8) While the operator is under the influence of intoxicating liquor and/or drugs;
- (9) Upon the shoulder or inside bank or slope of any highway;
- (10) Drive on the draw-down on any shoreline;
- (11) In any area or in such a manner as to unreasonably expose the underlying soil, or to create an

- erosion condition, or to injure, damage or destroy trees, growing crops or other vegetation;
- (12) On any non-highway road or trail that is restricted for only pedestrian/animal travel;
- (13) (Excepting a motorcycle) on any public paved or gravel road maintained for automobile, motorcycle and truck use, e.g., Bureau of Indian Affairs Class 2-4 paved or gravel roads, highway, etc.;
- (14) In any area in which ORV use is prohibited;
- (15) Chase, harass or run-down any wildlife or livestock except as provided by this Chapter or the Business Council;
- (16) At a rate of speed greater than is reasonable and prudent under existing conditions;
- (17) In violation of any terms or conditions of an ORV use permit;
- (18) After failing to sign a notice of infraction citation issued by a natural resources enforcement officer;
- (19) Hunt or shoot/throw any object from the ORV while the ORV is moving;
- (20) Carry a passenger, when said ORV is not designated to carry a passenger, or carry more passengers than the number for which the ORV is designed;
- (21) When such person is not an enrolled member of the Colville Tribes, carry or transport a firearm with a bullet in the magazine or chamber in/on an ORV within the boundaries of the Reservation;
- (Amended 8/6/09, Resolution 2009-580)
- (22) On a snow plowed road or highway, when the ORV is a snowmobile;
- (23) (Excepting a motorcycle or mountain bike) within a public housing site;
- (24) In any manner prohibited by this subchapter or the rules and regulations promulgated hereunder;
- (25) While the operator is over thirteen (13) and under sixteen (16) years of age unless an adult is present; or
- (26) Who is under the age of thirteen (13).

**4-1-445**

**Accidents**

The operator of an ORV involved in an accident, or owner of the ORV who has knowledge of the accident, shall, within twenty-four (24) hours of the date of the accident, file or cause to have filed with the Tribal Police an Accident Report, whenever such accident results in the injury to/death of any person or results in property damage estimated at a value of \$500 or more.

**NON-MEMBER CAMPING**

**4-1-480**

**Findings; Purpose**

(a) The Business Council hereby finds: that the tribal trust lands of the Confederated Tribes of the Colville Reservation (as well as other tribally owned or managed lands) contain many areas suitable and desirable for camping and related recreational activities, whether or not established campgrounds may exist; that these areas are attractive to non-members of the Tribes as well as tribal members; that tribal members are entitled to expect a priority in the opportunity to use these areas due to their ancestral and aboriginal ties to

(August 2009 version of Chapter 4-1)

the lands of the Reservation; and that in many cases non-member use of these camping areas has resulted in crowded conditions and environmental degradation that conflict with enjoyment and use of these areas by tribal members.

(b) Consistent with the legislative intent set forth in this Chapter, the purpose of this subchapter is to establish policies and procedures to regulate and restrict non-member camping activities on tribal trust lands and on other lands within the Reservation owned or managed by the Tribes, in order to protect the rights of tribal members to use and enjoy tribal lands, to prevent degradation of the land and natural resources, and to defray the cost of such regulation.

**4-1-481 Closure; Permit Regulations; Public Notice**

(a) Consistent with the policy previously established by the Business Council, all tribal trust and fee lands of the Confederated Tribes of the Colville Reservation (whether located within or outside the exterior boundaries of the Reservation) are closed to camping by non-members of the Tribes except to the extent, and under such conditions, as they may be opened pursuant to regulation adopted by the Business Council in accordance with this Chapter.

(b) Such regulations may identify specified areas to be opened to non-member camping, may provide that non-members must obtain a tribal camping permit to be maintained in their possession while camping, and may authorize the assessment of fees and other conditions as appropriate. Such regulations shall be reviewed on an annual basis, but shall remain in effect until modified or repealed by the Business Council as provided by this Chapter.

(c) Camping areas subject to closure or conditions shall be posted and identified in an efficient and reasonable manner, and the posting shall include a listing of camping rules based on the requirements of this subchapter and regulations and other applicable tribal law.

(d) Due to the high rate of vandalism involving signs and posting of notices on the Reservation, it is incumbent upon individuals seeking to recreate on Reservation lands to contact the Natural Resources Department to ascertain closures and restrictions on the use and enjoyment of tribal lands and resources.

**4-1-482 Interpretation**

(a) Nothing in this subchapter shall be interpreted to restrict the inherent or delegated authority of the Tribes to regulate any lands within the exterior boundaries of the Reservation or otherwise exercise its jurisdiction for reasons related to the protection and promotion of the political integrity, economic security, or health and welfare of the Tribes, including but not limited to protection of natural resources or reserved rights.

(b) All prior resolutions and enactments relating to camping by non-members are hereby repealed to the extent they are inconsistent with the provisions of this subchapter or regulations approved pursuant hereto.

(c) This subchapter is not intended to impose any conditions on camping activities of tribal members except to the extent such conditions may be imposed by regulation approved by the Business Council when necessary to protect the resources of the Reservation; provided, that the Business Council may by regulation restrict camping by non-member guests and immediate family or family of tribal members.

(d) This subchapter shall not be interpreted as establishing, as a matter of tribal law, any criminal penalties for camping activities by non-members of the Tribes (including where the language defining a civil violation is adopted from the tribal Criminal Code), but shall not be interpreted to preclude federal prosecutions pursuant to this Chapter or any applicable federal law.

(e) If any part of this subchapter, or the regulations promulgated hereunder, is found to be invalid by a court of competent jurisdiction, it is the intent of the Business Council that the remaining provisions shall continue in full force and effect to the maximum extent possible.

**4-1-483 Repealed**

**4-1-484**     **Civil Offenses**

Notwithstanding any reference to the criminal offenses provisions of this Law and Order Code, the following constitute civil offenses under this subchapter:

- (a) No person shall violate any provision of this subchapter or any regulation promulgated hereunder;
- (b) Whenever a regulation adopted hereunder shall require a camping permit, the holder of the permit shall maintain the permit on his person or displayed in the windshield of his vehicle, as may be required by the regulation in question or the character of the campground. Any person subject to regulation under this subchapter and not in possession of a permit shall be in violation of this subchapter.
- (c) No person subject to regulation under this subchapter shall possess a firearm in any campground or in any public area adjacent thereto, or on the waters of any lake or on the shoreline thereof or in any public area adjacent thereto, or on the waters of any lake or on the shoreline thereof or in any public area adjacent thereto, except to the extent authorized by tribal law permitting such person to exercise hunting privileges.
- (d) No person subject to regulation under this subchapter shall engage in disorderly conduct, nor shall such person be under the influence of any intoxicating beverage, drug, or controlled substance as these offenses are defined in the criminal offenses provisions of this Code
- (e) Any person who, while engaging in camping activities regulated by this subchapter, commits an act that is violation of any other provision of this Chapter or of any other applicable tribal law, shall also be deemed to have violated this subchapter.

*(Boating & Water Use Code, Trail & Off- Road Use Code, and Non-member Camping Regulations adopted by resolution 1996-51 to 54, have been redesignated as Department regulations and not a part of this Law and Order Code. Any subsequent resolutions adopting similar regulations will be designated as Department regulations).*

(Chapter 4-1 Amended 5/16/02, Resolution 2002-298)  
(Certified 5/28/02)  
(Chapter 4-1 Adopted 8/21/97, Resolution 1997-491)