

## **CHAPTER 21**

### **STOCKBRIDGE-MUNSEE COMMUNITY FISH AND WILDLIFE ORDINANCE**

#### **Section 21.1 Tribal Council Purpose and Findings**

The Tribal Council finds that:

- (A) One of the most important short and long-term resources is the fish and wildlife of the Stockbridge-Munsee Community.
- (B) The fish and wildlife are important cultural resources to the Tribe.
- (C) The Tribe desires to manage the fish and wildlife for present needs and for future generations.
- (D) Certain species need protection in order to survive as a species.
- (E) Properly managed natural resources will provide an excellent environment for natural habitat such as fish, wildlife, natural herbs, wild flowers, and forest resources.
- (F) The Tribe's ownership of fee land, forest crop fee land, managed forest fee land, and the United States' ownership of federal trust and proclaimed lands for the benefit of the Tribe implicates Tribal, federal, and state law depending on the ownership of the land.
- (G) The Tribe's increasing land base, home building, economic development, and reforestation efforts necessitate increasing involvement and management of the natural resources by the Conservation Department, the Fish and Wildlife Board and the Tribal Council.
- (H) All enrolled members of the Tribe shall have a right to share in the beneficial use of the natural resources of the Tribe's trust and fee lands.

#### **Section 21.2 Authority**

- (A) The Ordinance is authorized under Article VII (f) of the Stockbridge-Munsee Constitution, and its inherent powers, as an exercise of its governmental powers to govern the use, management and administration of lands, waters, fish and wildlife of the Stockbridge-Munsee Indian Reservation. Such authority is essential to protect the political integrity, economy, and the general welfare of the Stockbridge-Munsee Community.
- (B) In addition, the Stockbridge-Munsee Community has authority over tribal lands owned in fee simple by virtue of its ownership of such land and its authority over the conduct of its members and may enforce this Ordinance consistent with such authority.

#### **Section 21.3 Definitions**

- (A) "Big game" shall mean, but not be limited to turkey, deer and bear.

- (B) “Fish and Wildlife Board” means the body appointed by the Tribal Council.
- (C) “Conservation Department” means the departments and entities such as the game warden(s) and the wildlife biologist(s).
- (D) “Fur bearing animals” shall mean beaver, mink, muskrat, otter, skunk, raccoon, fox, weasel, opossum, badger, coyote, fisher and bobcat.
- (E) “Infraction(s)” means violations of this Ordinance as further identified hereunder, including in Section 21.20.
- (F) “Migratory birds” shall have the meaning set forth pursuant to the Migratory Bird Treaty Act, 50 CFR Part 10.
- (G) “Minor” means a person under the age of 18 years old, at the beginning of the season for which they hold a permit.
- (H) “Pan fish” means, perch, bluegill, crappie, sunfish, and rock bass fish.
- (I) “Permittee” means a person who is a direct descendant, a spouse of a Stockbridge-Munsee tribal member, or a legally-adopted minor child of an enrolled Stockbridge-Munsee tribal member.
- (J) “Small game” shall mean all wild animals not defined as big game or fur bearing animals.
- (K) “Special Permit” means a ceremonial harvest permit issued by the Tribal Council for the harvest of fish or game for use at a feast or other ceremonial occasion; a disabled permit issued by the Tribal Council to accommodate a Tribal member’s physical disabilities. Such permits are issued upon such terms and conditions as the Tribal Council deems appropriate.
- (L) “Spring Hole” means the area of the West Branch of the Red River, commonly known as the Spring Hole.
- (M) “Tribal Court” means the Stockbridge-Munsee Court.
- (N) “Tribal Council” means that the Stockbridge-Munsee Community Tribal Council.
- (O) “Tribe” means the Stockbridge-Munsee Community.
- (P) “CITES” is an abbreviation for Convention on International Trade in Endangered Species.
- (Q) “Bow” is a general term for a weapon that fires arrows and includes recurve, compound, longbow, and crossbow.

## **Section 21.4 Jurisdiction**

(A) This Ordinance shall apply to all lands and waters of the Stockbridge-Munsee Reservation, which for purposes of enforcement of this Ordinance includes proclaimed reservation lands and tribal trust lands as well as individual trust lands under the jurisdiction of the Stockbridge-Munsee Community.

(B) This Ordinance shall also apply in relation to lands that the Tribe owns in fee simple; however, such lands may be subject to state laws or may be subject to terms of an agreement between the Tribe and the State of Wisconsin.

## **Section 21.5 Fish and Wildlife Board**

(A) General Powers.

(1) In addition to the powers of the Fish and Wildlife Board bylaws, the Fish and Wildlife Board is authorized to oversee conservation policy on the Stockbridge-Munsee Indian Reservation in accordance with this ordinance.

(2) The Fish and Wildlife Board may develop and recommend to the Tribal Council other conservation rules and regulations that shall not violate the provisions of the Tribal Constitution, this ordinance, or any other Tribal law.

(3) The Fish and Wildlife Board may exercise those powers authorized under this ordinance, and as directed by the Tribal Council.

(4) The Fish and Wildlife Board will follow all applicable Tribal law including Chapter 51, Code of Conduct.

(B) Duties and Responsibilities of the Board. The Fish and Wildlife Board shall:

(1) Meet on a regular basis and submit their meeting minutes to Tribal Council.

(2) Make recommendations to Tribal Council regarding amendments to this ordinance.

(3) Make recommendations to the Tribal Council regarding conservation resource policy issues.

(4) Make recommendations regarding Special Permits.

(5) Request assistance from the Conversation Department to fulfill the Fish and Wildlife Board's responsibilities, as needed.

## **Section 21.6 Conservation Department**

(A) The Conservation Department, a department of the Tribe, is responsible for carrying out the functions and policies of the Tribe relating to the natural resources, which are consistent with this Ordinance.

(B) The Conservation Department shall have authority to enforce the provisions of this Ordinance utilizing Authorized Law Enforcement in accordance with Section 21.21, the Tribal Prosecutor, and the Stockbridge-Munsee Tribal Court.

(C) The Conservation Department shall work with the Fish and Wildlife Board, the Environmental Department, and other departments to insure that water quality, fish stocks and fish spawning areas are not harmed by activities controlled, regulated, or authorized by the Conservation Department.

(D) Nothing in this Ordinance is intended to limit the Conservation Department's ordinary functions, duties, or responsibilities.

## **Section 21.7 Tribal Council**

(A) The Tribal Council has overall authority to approve recommendations from the Conservation Department and/or Fish and Wildlife Board regarding conservation issues, policies and procedures.

(B) The Tribal Council may temporarily alter seasons, limits, fees, permit requirements, close areas, or waive provisions of this ordinance, if the Tribal Council determines that it is in the best interests of the Tribe and that an emergency exists or other similar circumstances exists or there is not adequate time to amend this Ordinance. The Tribal Council must also determine that if it does not act, the Tribe or its conservation resources will be harmed. Any actions under this provision must be acted on by Resolution, and in accordance with Chapter 50.

(C) The Tribal Council may also issue any Special Permit upon such terms and conditions the Tribal Council shall deem appropriate.

(D) The Tribal Council may also waive any provision of this Ordinance for special cultural or ceremonial events such as the Chemon Welch fishing derby, or other similar events.

(E) This section is not intended to be any limitation on Tribal Council's inherent or constitutional authority.

(F) No one is authorized to release non-native animals or plant non-native plants on tribal lands without Tribal Council approval. This does not apply to individual gardens on land assignments or authorized community gardens.

## **Section 21.8 License, Permits, Harvest Tags**

(A) Enrolled members of the Stockbridge-Munsee Community shall not be required to purchase or possess a Fishing and/or Hunting permit when fishing, hunting, possessing, or transporting any fish or game lawfully taken within the boundaries of the Stockbridge-Munsee Indian Reservation, provided they have in their possession a valid enrollment ID card.

(B) Permittees may hunt deer provided that they have a valid deer Hunting Identification Permit issued by the Land and Enrollment Department.

(C) Permittees, who are minor-aged direct descendants may receive a permit to hunt deer on the Reservation during the tribal season; provided, if under 16 years of age, the minor must be accompanied by an adult tribal member while hunting.

(D) Permittees may fish provided they have a valid fishing permit issued by the Land and Enrollment Department.

(E) Permittees are required to have their permit on their person or in their possession.

(F) Any person who hunts, traps, or fishes within the jurisdiction of this Ordinance shall have in their possessions either an enrollment card or a valid permit. The enrollment card or permit must be in possession when:

- (1) Carrying a firearm or bow,
- (2) Shooting, trapping, taking or possessing small game or fur bearing animals.
- (3) Transporting game.

(G) Any person born after August 15, 1992 must have successfully completed an approved Hunter Safety course and possess a certificate in order to hunt on the Reservation.

(H) Big game hunting (bear, deer, turkey) requires all hunters to possess harvest tags as provided in Section 21.15.

## **Section 21.9 Permittee Hunting and Fishing Fees**

(A) Fees for adult direct descendants, spouse of Tribal member, legally-adopted minor children of a Tribal member are:

- (1) Deer and small game hunting permit is \$30.00 annually.
- (2) Fishing permit is \$30.00 annually.
- (3) A Sportsman permit, valid for hunting and fishing is \$50.00 annually. A Sportsman permit is not valid for turkey hunting.

(4) Spring turkey permit is \$8.00 annually.

(B) Fees for minor-aged direct descendants are:

(1) Deer and small game hunting permit is \$7.50 annually if in school or graduated high school and still a minor; \$30.00 if not enrolled in school.

(2) Fishing permit is \$7.50 annually if in school or graduated high school and still a minor; \$30.00 if not enrolled in school.

(3) Spring turkey permit is \$4.00 annually if in school or graduated high school and still a minor; \$8.00 if not enrolled in school.

### **Section 21.10 Fishing Regulations**

(A) There shall be no limitation on the taking of rough fish for personal use. The following regulations are imposed on the taking of: Brook Trout, Northern Pike, Rainbow Trout, Bass (Large mouth and Small mouth), Pan fish, and Walleye.

(B) For trout, there will be a size limit of seven (7) inches or better, and a limit of ten (10) of any kind for Tribal Members and five (5) trout of any kind for other permittees per day. There will be a limit for trout possession of fifty (50) for Tribal Members and twenty-five (25) for other permittees.

(1) There is a limit of three (3) Bass per day.

(2) There is a limit of twenty-five (25) Pan fish per day.

(3) There is a limit of five (5) Northern Pike per day.

(4) There is a limit of two (2) Walleye per day.

(C) All waters within the jurisdiction shall be closed to trout fishing from October 1 to November 30. The Spring Hole, including the creek leading to the West Branch of the Red River shall be closed from October 1 to May 1.

(D) The trout fishing season for permittees shall be from the first Saturday in May until September 30.

(E) Herman Pond Regulations: Catch and release by Tribal members and permittees is permitted. Keeping fish is limited to Tribal members and permittees age 15 and under, and 55 and older.

## **Section 21.11 Commercial Fishing Permits**

Commercial fishing will not be permitted.

## **Section 21.12 Protected Species**

(A) There shall be no taking, possessing or transporting at any time of species listed as protected, threatened, or endangered under federal law, including, but not limited to, those listed under the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, the Lacey Act, and the Endangered Species Act.

(B) There shall be no taking, possession, or transporting at any time of any species of fish or wildlife that may from time to time be established or reintroduced into the lands and waters of the Stockbridge-Munsee Community until such time as the Tribal Council deems appropriate by establishing a seasons and regulations pertaining to such species.

(C) The taking of elk, mountain lion, pine marten and moose shall not be permitted.

(D) The taking of a wolf shall not be permitted unless the wolf poses an immediate threat to human safety. In the event of a taking due to an immediate threat to human safety, the individual shall immediately contact tribal game wardens/conservation officers; the carcass and site shall not be disturbed.

## **Section 21.13 Small Game, Migratory Bird and Grouse Regulations**

(A) Small game season shall be August 1 to the last day of February. Permittee small game season is closed during traditional 9-day gun deer season.

(B) There shall be a daily limit of ten (10) not to exceed twenty (20) in possession of taking of rabbit and squirrel.

(C) Taking of Migratory Birds shall be subject to the maximum federal annual allowances provided for the Central Flyway, as provided in 50 CFR Part 20.

(1) Only steel shot may be used to take migratory birds over water.

(2) Migratory bird season shall be September 1 to November 30.

(3) There shall be a daily limit of 10 ducks of any sex and any species and a daily limit of 5 geese. The possession limit shall be double the daily bag limit.

(D) Ruffed grouse and spruce grouse shall be limited to five (5) per day per person, and the possession and transportation of these types of small game shall be limited to no more than ten (10) grouse at any time.

(E) Only tribal members may take fur-bearing animals with a weapon.

## **Section 21.14 Turkey Hunting Regulations**

(A) Turkeys are considered “Big Game” and must be registered.

(B) Spring Turkey Season:

(1) The spring turkey season is open to Tribal Members and permittees. Tribal members may harvest two (2) tom or jake during this season. Permittees may harvest one (1) tom or jake during this season.

(2) Hunting season for Tribal Member is April 1 to May 31.

(3) Hunting for permittees is April 15 to May 31.

(C) Fall Turkey Season:

(1) The Fall turkey season is open to Tribal Members only. Hunters may harvest two (2) turkeys of either sex.

(2) The fall hunting season is September 30 to December 31.

## **Section 21.15 Deer and Bear Hunting Regulations**

(A) Deer hunting season is from August 15 to January 15 for Tribal Members and minor direct descendants. Only bucks may be taken until October 1. The taking of deer shall be limited to two (2) per person per season for Tribal members, except as permitted in Section 21.15(A)(1). Minor direct descendants shall be limited to one (1) deer per season.

(1) A Tribal member may request that up to two (2) antler-less deer be donated to them from another Tribal member.

(a) The donee can request up to two (2) deer donation tags from Land and Enrollment Department.

(b) The donee must inform Land and Enrollment who the donee will give the donation tags to.

(c) Only another enrolled Tribal member may fill or use a donation tag.

(B) Deer hunting for adult direct descendants and other Permittees is limited to:

(1) Bow season: September 15 through December 31.

(2) Firearm season: from the Saturday of the week before Thanksgiving to the Sunday following Thanksgiving.

(3) Permittees under this section are limited to one deer per year.



(4) Only bucks may be taken until October 1.

(C) The season for taking bear shall be September 1- December 1 and shall be limited to one (1) per person per season. Only Tribal members may take bear. Bear may not be taken with any rim fire cartridge, or with any caliber firearm of 22-caliber or less.

(1) It shall be unlawful to molest any bear in its den.

(2) Nothing in this Ordinance shall prohibit the taking of any bear, which poses an immediate threat to human safety, livestock or to personal property.

(F) Arrowheads for deer hunting must be made of all steel barbless design, not less than one (1) inch wide for single two (2) blades and not less than three (3) inches in circumference for three (3) or more blades. Arrowheads with blades of mill-tempered spring steel which contain a plastic core or ferrule conforming with the above dimensions, with a minimum weight of seventy-five (75) grain may be used.

#### **Section 21.15.5 Group Deer Hunting/Assisted Harvest**

(A) Group Deer Hunting, also referred to as Party Hunting, is defined as at least 3 or more hunters who are hunting together within sight or voice contact of another person at all times and harvest a deer for another member of the group.

(B) Individuals are allowed to participate in group deer hunting as follows:

(1) An enrolled tribal member may participate in a group deer hunt so long as at least one hunter in the group has a valid, unused carcass tag and the hunter with the tag has agreed another hunter in the group can fill that tag for him/her if a deer is harvested.

(2) A permittee can only participate in group hunting activities during the time frame from the Saturday of the week before Thanksgiving to the Sunday following Thanksgiving so long as:

- (a) the permittee had a valid, unused carcass tag at the start of the 9-day permittee gun deer season, and
- (b) at least one hunter in the group has a valid, unused carcass tag and the hunter with the tag has agreed another hunter in the group can fill that tag for him/her if a deer is harvested.

(3) Hunters may not use electronic devices (except hearing aids) to get someone to tag a deer. It is legal to use electronic devices for reasons other than getting someone to tag the deer.

(C) It is illegal to kill deer for another person, EXCEPT, as part of group deer hunting activities allowed under this Section or when filling a deer donation tag under Section 21.15 (A)(1).

## **Section 21.16 Mandatory Registration / Wildlife Count**

(A) All big game (bear, deer, turkey) harvested on the Stockbridge-Munsee reservation must be registered.

(1) Mandatory big game harvest tags will be issued to enrolled members and permittees and to donees through the Stockbridge-Munsee Land & Enrollment office. Harvest tags must be obtained by hunters prior to hunting big game.

(2) Hunters must have harvest tags in their possession while hunting. Harvest tags must be attached to big game immediately upon harvest. Big game must be tagged in the following manner: Bear & deer – hind leg through the gamble; turkey – around the base of the wing.

(3) All big game must be registered with the Conservation Department within 48 hours of harvest and processed within 30 days of registration.

(4) During a State of Wisconsin closed season, big game transported off the Reservation must also receive a Wisconsin DNR transportation tag.

(B) Before and during the applicable hunting season, the Conservation Department shall publish in the Mohican News, and the Tribal posting places, the applicable registration places, phone numbers, and hours. The Tribe's web site may also be utilized.

(C) From time to time, but at least every other year, the Conservation Department will perform a count of the wildlife within the jurisdiction; particularly the bear, deer, and turkey, but also other species as needed. Data compiled is to be brought to Fish and Wildlife Board for reviews and recommendations.

## **Section 21.17 Trapping Regulations**

(A) The season for trapping fur bearing animals shall be October 20 – April 15.

(1) Quotas for the number of fur bearing animals that may be trapped during the season shall be set at the beginning of the season based on the recommendation of the tribal Wildlife Biologist and acceptance of the Fish and Wildlife Board.

(2) Seasonal quotas will be posted at tribal posting places, the Little Star Convenience Store, in the Mohican News and on the tribal website.

(3) Once a seasonal quota has been reached or will be reached imminently for a particular animal, the tribal Wildlife Biologist will close the trapping season for that animal. Notice of season closure will be posted by the Conservation Department at tribal posting places, the Little Star Convenience Store, in the Mohican News and on the tribal website.

(B) All traps and fur bearing animals taken pursuant to these regulations shall have the Tribal member's enrollment number clearly marked on them.

(C) Except as provided for in Section 21.17 (F) and (G), when shipping furs, the parcel must be plainly marked on the outside stating the name, address, permit number of the shipper, the number and kind of skins contained in the package. The bill of lading or receipt issued by any common carrier to a shipper shall specify the number and species of furs shipped.

(D) Hides or pelts adapted to personal use need not carry the permit number once the adaptation is completion.

(E) Only Tribal members may trap.

(F) Bobcat and Otter:

(1) Bobcat and Otter hides intended to be exported from the reservation, require the trapper to attach Federal or Tribal CITES.

(2) By June 1 of each year thereafter, the number of CITES tags to be issued will be determined by the Fish and Wildlife Board, who will report the number of CITES tags to the Tribal Council. The number of CITES tags to be issued shall also be published in the Mohican News and the Tribe's web site.

(a) The Conservation Department must maintain an accurate log consisting of the number of CITES tags available for each season and the tag numbers.

(b) Except when issuing CITES tags, the unused CITES tags must be kept in a secure location with limited access.

(c) CITES tags will be issued by the Conservation Department to Tribal members on a first come, first served basis, until the annual quota is reached.

(d) As CITES tags to Tribal members, the tag numbers issued must be recorded and the Tribal member must sign the log.

(e) The Tribal member is responsible for any CITES tags that are issued to them.

(f) The Game Wardens are authorized to issue Class A citations for any unaccounted CITES tags or any violations of this section.

(3) CITES tags must be permanently attached to the hide through the cheek and eye by the Game Warden or Wildlife Biologist.

(4) The CITES tag must show the US-CITES logo; and a reference that the tag originates from the Stockbridge-Munsee Community, State of Wisconsin, the year of the take, species and unit serial number.

(5) Bobcat season is October 15 through January 15.

(6) Otter season is October 15 through March 31.

- (7) Tribal members must obtain a transportation tag from the Conservation Department, if the bobcat or otter will be transported off of the Reservation.

(G) Fisher Season is October 15 through January 31.

- (1) Trappers must report their trappings with the Game Warden or the Wildlife biologist within 48 hours of the trapping.
- (2) Once the quota has been met, the Conservation Department shall post such notice at the Little Star Convenience Store, the Conservation Department and the Tribe's web site.
- (3) Tribal members must obtain a transportation tag from the Conservation Department, if the Fisher will be transported off of the reservation.

### **Section 21.18 Commercial Hunting and Trapping**

(A) Except for the exceptions listed below, there shall be no commercial taking of big game, small game or fur bearing animals.

- (1) The skins of all fur bearing animals may be taken commercially.
- (2) Hides of deer may be possessed and transported for commercial purposes.

### **Section 21.19 Motor Vehicles**

(A) Motor vehicles, excluding ATV's, are prohibited on logging roads during spring break up, except as otherwise authorized under tribal law.

(B) Motor vehicles and ATV's are prohibited beyond the dells landing and other posted sensitive areas.

### **Section 21.20 Infractions Defined**

(A) Any person who kills, wounds, catches, takes, traps, or has in his/her possession any fish, bird, small game, big game, or fur bearing animal included in this Ordinance without a valid permit or permits shall be guilty of a Class A Infraction.

(B) Allowing any other person to make use of his/her permit, regardless of whether or not such person would qualify to receive a permit in his/her own right, shall be deemed a Class B Infraction.

(C) Taking, assisting in taking, possessing or transporting any game in violation of this Ordinance shall be deemed a Class A Infraction.

(D) Wanton destruction or waste of any game animal, fish or bird on tribal lands shall be deemed a Class A Infraction. Waste shall include the failure to process a game animal, fish or bird in a timely manner.

(E) Exceeding established limits, using prohibited means or equipment, or fishing, hunting, or trapping outside of established seasons and/or hours shall be deemed a Class B Infraction.

(F) Hunting while under the influence of alcohol or controlled substances shall be deemed a Class C Infraction.

(G) Fraud in the procurement of any permit shall be deemed a Class B Infraction.

(H) Carrying a firearm in any motor vehicle, unless the firearm chamber is unloaded or a loaded magazine is not attached to the firearm or the firearm is otherwise broken down, shall be deemed a Class C Infraction. Rounds may be stored separately from the firearm or in a separate magazine, so long as the magazine is not attached to the firearm.

(I) Hunting from a snowmobile or chasing game with a snowmobile or other motor vehicle shall be deemed a Class C Infraction.

(J) Except for hunting of raccoon or coyote, hunting of game animals by artificial lights shall be deemed a Class C Infraction.

(K) Refusal of any person engaged in any activity relating to fishing, hunting and/or trapping regulated under this Ordinance to display the proper permit or identification upon request of any Authorized Law Enforcement Personnel shall be deemed a Class C Infraction.

(L) Violating the terms and/or conditions of any Special Permit shall be deemed a Class A Infraction.

(M) Aiding, abetting or conspiring with another person to knowingly cause any person to violate any provision of this Ordinance or any rules and regulations adopted hereunder shall be a Class A infraction.

(N) It shall be unlawful to take fish by means of explosives, drugs, poisons, lime, medicated bait, or other deleterious substances. Violation of this provision shall be deemed a Class A Infraction.

(O) It shall be unlawful to use fish seines, fish traps or gill nets, except under authority of a Special Permit issued by the Council. Violation of this provision shall be deemed a Class C Infraction.

(P) It shall be unlawful to hunt with any poisoned arrow or arrow with explosive tip. Violation of this provision shall be deemed a Class C Infraction.

(Q) It shall be unlawful to take big game with the aid of any trap or snare, or with the aid of dogs; except bear may be taken with the aid of dogs. Violation of this provision shall be deemed a Class C Infraction.

(R) It shall be unlawful to use a set gun or swivel gun for any purpose. Violation of this provision shall be deemed a Class A Infraction.

(S) It shall be unlawful to take game with the use of drugs, medicated bait, poison, or other deleterious substances. Violation of this provision shall be deemed a Class A Infraction.

(T) It shall be unlawful to take bear within fifty (50) yards of any garbage dump or within one hundred (100) yards of any dwelling or within one hundred (100) yards of any area designated by the Tribe as a campground. Violation of this provision shall be deemed a Class A Infraction.

(U) It shall be unlawful to discharge any weapon across or down any road, or to hunt within fifty (50) feet of any paved road. Violation of this provision shall be deemed a Class C Infraction.

(V) It shall be unlawful to deposit any game entrails, body parts, and/or hide, into the waters of any creek, stream, river or lake or to dispose of same within 150 feet of any creek, stream, river, lake, road, residence or residential area. Violation of this provision shall be deemed a Class C Infraction.

(W) Any person who enters or remains on any land owned by the Stockbridge-Munsee Community without the Tribe's authorization shall be subject to a Class A infraction.

(X) Any person who sells, or assists, or aids in the sale of venison meat is subject to a Class A infraction.

(Y) Permanent tree strands are prohibited. Screw in steps, metal screws, or nails attached to trees are prohibited. Violators will be subject to a Class A infraction.

(Z) Any other violation or prohibited practice shall be a Class A infraction.

(AA) Motor vehicles or ATV use in a prohibited area is a Class C infraction.

(BB) Any person who intentionally disturbs the personal property of another person engaged in lawful hunting, fishing, or trapping activities shall be subject to a Class A infraction.

(CC) Any person who molests, take or appropriate a trap belonging to another person or the animal or contents of a lawfully placed trap belonging to another person shall be subject to a Class A infraction.

(DD) Any person who knowingly obstructs Authorized Law Enforcement in fulfilling his or her duties under this Ordinance shall be subject to a Class A infraction.

(EE) Any person who releases a non-native species, except as authorized by Tribal Council or law, shall be subject to a Class A infraction.

(FF) Any person who uses a light for wildlife viewing at night after 10 PM or who has a firearm/bow in their vehicle while using a light for wildlife viewing shall be subject to a Class B infraction.

(GG) Any person who uses a vehicle or other means to block a road with the intent of limiting access for other individuals to engage in activities permitted under this Ordinance shall be subject to a Class C infraction.

### **Section 21.21 Enforcement**

(A) Both Stockbridge-Munsee Law Enforcement Officers and Game Wardens/Conservation Officers are considered “Authorized Law Enforcement” for purposes of enforcement of Chapters 21 and 22 of the Stockbridge-Munsee Tribal Law (hereinafter referred to as “Ordinances” in this Section 21.21) and, as such, have authority to investigate and enforce the provisions of such Ordinance. Authorized Law Enforcement shall consult with other law enforcement agencies, where appropriate.

(B) Authorized Law Enforcement is authorized to investigate and pursue violations of these Ordinances. This may include observing persons engaged in activities under these Ordinances to ensure that the methods and equipment are lawful. Authorized Law Enforcement shall conduct such activities in good faith and in accordance with good law enforcement practices and may take such actions as appropriate to the circumstances and under applicable laws.

(1) Authorized Law Enforcement may issue warnings and/or citations to individuals who violate these Ordinances. Such warnings and/or citations are considered to be civil in nature, rather than criminal.

(2) Authorized Law Enforcement have authority to confiscate and seize hunting and/or fishing equipment, weapons, vehicles or any other equipment used in violating these Ordinances.

(a) If equipment, vehicles or weapons are confiscated and seized, such equipment, vehicles or weapons shall be considered evidence and properly recorded and secured with the Public Safety Department pending return or disposition in accordance with tribal law.

(b) If the alleged violator pays the amount of the citation before the court hearing date, the confiscated equipment, vehicles or weapons (except for illegal items) shall be returned to the ordinance violator.

(3) Authorized Law Enforcement also has authority to confiscate and seize fish and game obtained in violation of these Ordinances. The confiscated fish or game shall be documented and/or photographed for evidence purposes. If the fish or game is suitable

for human consumption, Authorized Law Enforcement shall turn the fish or game over to the Elderly Department or Tribal elders.

(C) The citation must be submitted to the Tribal Court within three (3) business days of service of the citation upon the individual. A copy of the citation shall be delivered to the Tribal Prosecutor at the same time.

(1) The Tribal Prosecutor shall use his or her discretion to prosecute violations of this Ordinance.

(2) Persons convicted of violations to this Ordinance shall be subject to the penalties herein described.

(3) In addition to forfeiture actions the Tribal Prosecutor may seek enforcement of any and all parts of this Ordinance by Court actions seeking injunctions or restraining orders. The Tribal Prosecutor may seek an emergency order from the Court to restrain or enjoin any violation that is jeopardizing the health or safety of any person. Such an order may be sought and issued ex parte if the Tribe shows a good faith effort to serve notice on the necessary parties.

(4) If the court finds the person not guilty of the alleged violation, any property or equipment seized by the Game Warden shall be returned to the person.

(D) Penalties.

(1) Any person found guilty of this Ordinance shall be assessed of a fine ranging from \$100.00 to \$5,000 as specified in section **21.21(D)**(6),(7) or (8). In assessing the fine, the Court shall consider the severity of the offense, the acceptance of responsibility by the charged person, the number of previous convictions, and deterrence to others.

(2) In lieu of or in addition to any other penalty, the Tribal Court may also order that equipment or property seized by the Game Warden not be returned to the violator and the equipment or property to become permanent property of the Conservation Department to be used of or disposed of at the Tribal Council's discretion.

(3) In lieu of or in addition to any other penalty, any person found guilty of violating this Ordinance may be required by the Tribal Court to provide community service.

(4) The Tribal Court may also order suspension of hunting or fishing privileges not to exceed five years.

(5) Revenues received from fines or forfeitures are to be deposited into the Tribe's general revenues.



(6) Civil remedial money penalties, referred to in this Ordinance as Fish & Game Infraction(s) are classified and carry penalties as follows and other remedies as the court deems appropriate:

(a) Class A Infractions, not less than \$500.00 nor more than \$5,000.00.

(b) Class B Infractions, not less than \$300.00 nor more than \$5,000.00.

(c) Class C Infractions, not less than \$200.00 nor more than \$5,000.00.

(7) When any person is found guilty of a violation, and such person has been convicted of a previous violation of this Ordinance within a period of one year, there shall be a mandatory revocation of all privileges regulated under this Ordinance for a minimum of two years, and the Infraction penalties may be enhanced as follows and other remedies as the court deems appropriate:

(a) For a Class A Infraction, \$5,000.00.

(b) For a Class B Infraction, not less than \$1,000.00 nor more than \$5,000.00.

(c) For a Class C Infraction, not less than \$500.00 nor more than \$5,000.00.

(8) For a third violation of this Ordinance within a period of one (1) year the penalty shall be \$5,000.00 and a mandatory lifetime revocation of all privileges regulated under this Ordinance and other remedies as the court deems appropriate.

(E) Civil Damages. In addition to an action for civil penalties, the Tribe may bring a civil action for recovery of damages against any person unlawfully killing, wounding, catching, taking, trapping, harvesting, or having unlawfully in his or her possession any game animal, fish, or bird.

## **Section 21.22 Parties to a Violation.**

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

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

(1) Directly commits the violation; or

(2) Aids and abets the commission of it; or

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

(C) Any person who attempts any violation of this ordinance shall be subject to the same class of infraction if they had completed all the steps for a violation. An attempt to commit a violation requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation and that the actor does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that the actor formed that intent and would commit the crime except for the intervention of another person or some other extraneous factor.

### **Section 21.23 Tribal Court**

The Tribal Court shall have jurisdiction over all violations of this Ordinance. The burden of proof is on the Tribe to prove with clear and convincing evidence that a violation of this Ordinance has occurred.

### **Section 21.24 Severability**

In the event that any provision of this Ordinance is ruled illegal by a court of competent jurisdiction, the remaining provisions of this Ordinance shall remain unaffected.

### **Section 21.25 Amendments**

Amendments to this Ordinance will be effective upon enactment by the Stockbridge-Munsee Community Tribal Council without further review by the Secretary of Interior.

## **LEGISLATIVE HISTORY**

1. Legislative Note: Chapter 20 initially part of Conservation Code, which was adopted by the Tribal Council on November 14, 1978; for additional Legislative History on Conservation Code, see Chapter 22.
2. Amended on March 21, 2000 by Resolution No. 010-2000. Approval by BIA April 11, 2000.
3. Section 21.9(A) amended creating deer donation policy by Tribal Council on January 2, 2002, Resolution Number 03-02. Approved by BIA January 15, 2002.
4. Legislative Note: The March 21, 2000 amendments regarding fees were not properly incorporated into the Ordinance. Upon this discovery, the appropriate fees were incorporated into the Ordinance on November 5, 2003, following the November 4, 2003 Tribal Council meeting.
5. On July 20, 2004, by Resolution No. 039-04, Tribal Council amended sections 21.1(A) and (B), 21.11(C), 21.13 by inserting “and the Stockbridge-Munsee Fish and Game Board;” sections 21.2(A) and (B) by deleting requirement to obtain State of Wisconsin licenses; sections 21.3(A) and (B) by changing the fees; creating section 21.3(C); deleting section 21.6(5) “Fur bearing animal”; deleting “bald eagle, elk, fisher, golden eagle, marten, timber wolf, lynx or any species determined to be rare or” from section 21.6(C)(4); adding “no more than ten grouse” to section 21.7(D); adding sections 21.8(E) and 21.10(E); creating reporting requirement to section 21.9(A)(4); amending sections 21.9(A)(2) and 21.9(B) to clarify the type and size of weapon or

firearm; deleted “the restrictions on the manner for taking bear are the same as outlined in (A)(1) of this section” from section 21.9(B)(1); creating section 21.11(B)(1); and creating section 21.14.

6. Amended by Tribal Council on June 6, 2006, by creating section 21.9(D), Resolution No. 044-06.

7. Amended by Tribal Council on July 18, 2006, by creating sections 21.2(D), 21.3(A)(4), 21.3(B)(3), 21.8(A), 21.8(B)(1)(2)(3), 21.8 (C)(1)(2), and 21.11(A)(1)(2)(3); and amending section 21.3(A)(3), Resolution No. 051-06.

8. Amended by Tribal Council on November 7, 2006, by deleting, “Tribal members may request their harvest tags be mailed to them,” from Section 21.11(A)(1), Resolution No. 011-07.

9. On May 6, 2008, Tribal Council repealed existing Chapter 21 and adopted a new Chapter 21 that renumbered and had changes clarifying numerous sections and incorporated enforcement and other relevant sections of Chapter 20. This was done by Resolution No. 030-08.

10. On October 9, 2008, Tribal Council made an administrative correction by adding the words “or permittee” to Section 21.15.5 (C).

11. Amendments adopted by Tribal Council on January 6, 2009 to create new Sections 21.3 (P), 21.7 (F), 21.10 (D), 21.13 (C)(1), 21.13 (E), 21.15 (B)(4), and 21.20 (EE); renumber Section 21.10 (D) as 21.10 (E); amend Section 21.16 (A); move Section 21.15 (A)(2) to be Section 21.15 (F); and make a technical change to Section 21.21. On February 3, 2009, Tribal Council renumbered the resolution adopting amendments as Resolution No. 021-09.

12. Amendment adopted by Tribal Council on September 1, 2009 to amend Sections 21.13, 21.16 (A)(3) and 21.20(D); and to create new Sections 21.13(C)(2) and 21.13(C)(3). This was done by Resolution No. 082-09.

13. On November 16, 2010, the Tribal Council adopted changes to Chapter 21 amending Sections 21.8(C), 21.15.5(C)(1), and 21.15.5(G) and creating new Sections 21.3(Q), 21.8(A)(1), 21.8(G) and 21.20(FF). These changes were adopted by Resolution No. 06-11.

14. On June 5, 2012, the Tribal Council adopted the following changes to Chapter 21:

- Amending 21.2(A), 21.4, 21.15(B)(2), 21.15.5(A), 21.15.5(B), 21.15.5(C), 21.17(B), 21.19(A), 21.20(V), 21.21(A) and 21.21 (B); and
- Deleting 21.8(A)(1), 21.8(C)(1), 21.15(D), 21.15(E), 21.15.5(D)-(G), 21.17(F)(2)(d), 21.17(G)(1) and 21.21(B)(3)(a)-(b); and
- Creating new 21.2(B), 21.12(C), 21.12(D), 21.15(A)(1)(c), 21.17(A)(1)-(3), 21.20(GG) and 21.21(B)(2)(a)-(b); and
- Renumbering 21.17(F)(2)(e)-(g), 21.17(G)(2)-(4), 21.19 and 21.21; and
- Technical change 21.6(B), 21.8(H), 21.17(C) and 21.21(D)(1).

These changes were adopted by Resolution No. 040-12.