

OMAHA TRIBAL CODE (2013)

TITLE 15. WILDLIFE AND PARKS

Table of Contents

CHAPTER 1. GENERAL PROVISIONS.....	1
SECTION 15-1-1. Statement of Policy.....	1
SECTION 15-1-2. Definitions.....	1
SECTION 15-1-3. Fish and Game Property of the Tribe.....	3
CHAPTER 2. THE WILDLIFE AND PARKS DEPARTMENT.....	3
SECTION 15-2-1. Establishment and Authority of Department.....	3
SECTION 15-2-2. Rangers of the Department.....	3
CHAPTER 3. PROCLAMATIONS AND REGULATIONS.....	4
SECTION 15-3-1. Proclamations.....	4
SECTION 15-3-2. Publication of Proclamation.....	5
SECTION 15-3-3. Additional Regulations.....	5
SECTION 15-3-4. Permits and Tags.....	5
CHAPTER 4. LICENSES, TAGS AND PERMITS; HUNTING, FISHING AND TRAPPING.....	6
SECTION 15-4-1. Hunting and Fishing Regulation: Tribal Members.....	6
SECTION 15-4-2. Hunting and Fishing Regulation: Non-Indians.....	6
SECTION 15-4-3. Hunting and Fishing Regulation: Non-member Indians.....	8
SECTION 15-4-4. Tagging and Transportation.....	8
SECTION 15-4-5. Non-Licensees.....	8
CHAPTER 5. PROHIBITED HUNTING, FISHING AND OUTDOOR RECREATIONAL ACTIVITIES.....	8
SECTION 15-5-1. Prohibited Activities; Civil Violations; Sanctions.....	8
SECTION 15-5-2. Prohibited Activities-Relation to U.S.C. § 1165.....	8
SECTION 15-5-3. Prohibited Activities.....	8
SECTION 15-5-4.....	11
CHAPTER 6. CIVIL ENFORCEMENT PROCEDURE.....	12
SECTION 15-6-1. Issuance of Civil Citation; Form.....	12
SECTION 15-6-2. Property Confiscation by Rangers; Receipts; Reports.....	13
SECTION 15-6-3. Filing of Civil Action; No Fee; Time Limits; Answer; Long-Arm Statute.....	13
SECTION 15-6-4. Issuance of Notice and Scheduling of Hearing by Court Clerk.....	13
SECTION 15-6-5. Subject Matter Jurisdiction Conferred on Tribal Court.....	14
SECTION 15-6-6. Pre-Payment of Civil Fines.....	14
SECTION 15-6-7. Subsequent Civil Proceedings; Enforcement of Judgments; Appeals.....	14
SECTION 15-6-8. Filing Fees Waived.....	14
CHAPTER 7. WOODCUTTING.....	14
SECTION 15-7-1. Omaha Tribal Wildlife and Parks Department.....	14
SECTION 15-7-2. Permits.....	14
SECTION 15-7-3. Permit Fees.....	14
SECTION 15-7-4. Woodcutting Regulations.....	15
SECTION 15-7-5. Schedule of Fines.....	15

OMAHA TRIBAL CODE (2013)

TITLE 15. WILDLIFE AND PARKS

Source: Omaha Tribal Council Resolution Nos. 82-01 (10-8-81) and 83-14 (11-4-82).

CHAPTER 1. GENERAL PROVISIONS

SECTION 15-1-1. Statement of Policy.

(a) It is the intent and purpose of this Wildlife and Parks Code to:

(1) provide an orderly system for the control and regulation of hunting and fishing within the exterior boundaries of the Omaha Indian Reservation;

(2) provide a means to promote the conservation and management of wildlife resources within the exterior boundaries of the Omaha Indian Reservation; and

(3) provide a means to control and regulate other outdoor and recreational activities within the exterior boundaries of the Omaha Indian Reservation.

(b) All matters relating to the conservation, regulation, control and management of the wildlife resources within the exterior boundaries of the Omaha Indian Reservation are subject to the civil and regulatory power of the Omaha Tribe of Nebraska.

(c) It is recognized that members of the Omaha Tribe of Nebraska have a preferred right and interest in and to the wildlife resources of the Omaha Indian Reservation and that the Tribe has a legitimate right to establish differing rules and standards to govern the actions of members and non-members of the Tribe on the subject of the wildlife regulation.

(d) The Tribal Council shall have the authority to adopt annual proclamations or other regulations for the implementation of the policies of this Hunting and Fishing Code and to alter or amend such proclamations and regulations as conditions indicate.

(e) All wildlife now or hereafter found within the exterior boundaries of the Omaha Indian Reservation, not held by private ownership lawfully acquired, are hereby declared to be property of the Omaha Tribe of Nebraska and no right, title, interest or property therein can be acquired or transferred or possession thereof had or maintained except as expressly provided herein.

(f) Hunting and fishing activities, and other outdoor and recreational activities affecting the wildlife and environment of the Omaha Indian Reservation, are closely regulated by the Omaha Tribe of Nebraska. Certain activities have been found to be detrimental to the wildlife and environment of the Omaha Indian Reservation and are prohibited. Civil Procedures for the enforcement of the prohibitions declared in this Code are established herein, these procedures shall be invoked without regard to the race, Indian status or Tribal membership of any alleged violator.

SECTION 15-1-2. Definitions.

(a) "All terrain vehicle" means any motorized vehicle designed for or capable of travel over unimproved terrain.

(b) "Aquatic wildlife" means any species of fish, crustacean, aquatic insect, or amphibian.

(c) "Bag limit" means the maximum number of wildlife of a particular specie which may lawfully be taken by any one person in one day.

(d) "Big game animals" means all species of deer, elk, antelope and mountain lion.

(e) "Tribal Council" means the Omaha Tribal Council.

(f) "Carcass" means the dead body of any animal, bird or parts of it.

(g) "Certificate of Registration" means a document granting authority to engage in activities not covered by a license, permit or tag issued under this Code or any proclamation of the Tribal Council:

OMAHA TRIBAL CODE (2013)

- (h) "Closed season" means that period of the time during which the taking of wildlife is prohibited.
- (i) "Code" means the Omaha Tribal Wildlife and Parks Code.
- (j) "Department" means the Omaha Tribal Wildlife and Parks Department.
- (k) "Director" means the Director of the Omaha Tribal Wildlife and Parks Department.
- (l) "Fishing" means to take aquatic wildlife by any means.
- (m) "Fur-bearing animal" means coyote, red fox, raccoon, skunk and bobcats.
- (n) "Game bird" includes all members of the following families:
- (1) Anatidae (Ducks and Geese)
 - (2) Rallidae (Rals, Ballinules and Goats)
 - (3) Colopacidae (Snipes, Landpipers)
 - (4) Tetaonidae (Grouse, Ptarmigan)
 - (5) Phasianidae (Quail, Partridge and Pheasant)
 - (6) Meleagrididae (Turkeys)
 - (7) Columbidae (Pigeons and Doves)
- (o) "Game fish" means all species of trout, salmon, mountain herring, channel catfish, whitefish, crappie, perch, black bass, or pike.
- (p) "Indian" means any person of Indian descent who is defined as an Indian for purposes of criminal jurisdiction under the Major Crimes Act, 18 U.S.C. Section 1153. See United States v. Antelope, 97 5. Ct. 1395, 1399 (1977).
- (q) "Hunting" means to take any bird or animal by any means.
- (r) "License" means the primary document granting authority to engage in activities covered by this Code.
- (s) "Non-Indian" means any person who is not an Indian within the meaning of 18 U.S.C. § 1153.
- (t) "Non-Indian Landowner" means any non-Indian who holds fee title to land within reservation boundaries, and shall extend to all members of the landowner's immediate household. The term non-Indian landowner does not include non-Indian lessees of tribal or Indian-owned land.
- (u) "Non-member Indian" means any person who is an Indian for purposes of 18 U.S.C. § 1153, but who is not a member of the Omaha Tribe of Nebraska.
- (v) "Officer" means an officer of the Omaha Tribal Wildlife and Parks Department or other law enforcement officer of the Tribe.
- (w) "Open season" means that period of time during which the taking of wildlife by legal means is permitted.
- (x) "Permit" means a document, including stamps, requiring a license as a prerequisite to its issuance, which grants authority to engage in certain specified activities under this Code of any resolution of the Tribal Council.
- (y) "Person" means an individual, individual association, partnership or corporation, or any agent of the foregoing.
- (z) "Possession limit" means the maximum number of wildlife of a particular specie which may be possessed by any one person at any one time.
- (aa) "Recreational vehicle" means any snowmobile or all-terrain vehicle engaged in off-highway recreational use.

OMAHA TRIBAL CODE (2013)

(bb) "Reservation" means all lands, waters and waterways (including the Missouri River) within the exterior boundaries of the Omaha Indian Reservation (including the Blackbird Bend and other tribal land located east of the Missouri River) as set forth in the Omaha Treaty of March 16, 1854, as amended by the Treaty of March 6, 1865.

(cc) "Sell" means offer or possess for sale, barter, exchange or trade, or the act of selling, bartering, exchanging or trading.

(dd) "Snowmobile" means any motorized vehicle designed for travel on snow and/or ice and steered and supported in whole or in part by skis, belts, cleats, runners or low-pressure tires.

(ee) "Tag" means a card, label or other identification device issued for attachment to the carcass of any wildlife.

(ff) "Take" means to fish, angle, hunt, pursue, catch, capture, seize, trap, kill or possess any wildlife or any attempt to commit any of these acts.

(gg) "Tribal member" or "Omaha Indian" means any member of the Omaha Tribe of Nebraska.

(hh) "Tribe" means the Omaha Tribe of Nebraska

(ii) "Wildlife" means any form of animal life generally living wild in a state of nature, including all wild mammals, birds, fish, reptiles and amphibians and their nests, eggs and spawn.

(jj) "Tribal Ranger" shall mean any duly authorized officer of the Wildlife and Parks Department, whether temporary or full-time, who has been empowered by the Omaha Tribal Council to enforce the provisions of this code.

(kk) "Firearms" means pistols, revolvers, rifles, shotguns and any device that is capable of being used as a weapon because it expels a projectile by some means of force.

(ll) "Proclamation" includes the rules and regulations of the Tribal Council regulating activities covered by this Code and adopted and published under the provisions of this Code.

SECTION 15-1-3. Fish and Game Property of the Tribe.

(a) All wildlife now or hereafter within the Reservation, not held by private ownership legally acquired, and which for the purposes of this Code shall include all big game animals, game birds, waterfowl, game fish, amphibians and fur-bearing animals mentioned in this Code, are hereby declared to be the property of the Omaha Tribe of Nebraska and no right, title, interest or property therein can be acquired, transferred or possession thereof had or maintained except as herein expressly provided.

(b) It shall be lawful for the Department or any person appointed by it in writing so to do under the direction of the Director, to take wildlife of any kind in any manner for the purpose of inspection, cultivation, propagation distribution, scientific or other purposes deemed by the Director to be in the interests of promoting and protecting, or regulating reservation wildlife.

CHAPTER 2. THE WILDLIFE AND PARKS DEPARTMENT.

SECTION 15-2-1. Establishment and Authority of Department.

There is hereby established a Wildlife and Parks Department. The administrative organization and structure of the Department shall be established by the Omaha Tribal Council by separate legislation. The Director of the Department shall report to the Chief of Police, Omaha Tribal Police Department, unless otherwise provided in the organizational legislation. The Department shall have principle administrative and field responsibility for enforcement of the provisions of the Wildlife and Parks Code.

SECTION 15-2-2. Rangers of the Department.

(a) Full-time Rangers of the Department, shall meet the requirements established for the Tribal Police Officers. Department Rangers shall meet such requirements as to physical characteristics, competencies, education and training as may from time to time be established by the Tribal Council or the directors for

OMAHA TRIBAL CODE (2013)

each position or category of positions provided.

(b) The Director may at his discretion and depending upon the needs of the department require rangers to meet the requirements of the Nebraska Game and Fish Commission or of the United States Fish and Wildlife Service, or both.

(c) The Directory may from time to time appoint temporary Rangers to aid the Department in the conduct of its functions.

(d) Rangers of the Department shall have authority to issue civil citations to persons engaged in activities prohibited by this Code where:

(1) The Ranger personally observes the violation take place, or

(2) The Ranger has within his knowledge before the citation is issued information constituting reasonable grounds to believe that the person cited has engaged in a prohibited activity.

(e) Rangers of the Department shall have authority to confiscate any hunting, fishing or recreational equipment or paraphernalia in the possession, custody or control of the person cited at or about the time of the violation for which the citation is issued, or which was otherwise directly involved in the occurrence of the violation.

(1) In which a citation is issued; or

(2) In which a violation occurs but no citation is issued because the violator cannot be located, identified or physically issued a citation. In such cases a citation shall be attached to any confiscated property in accordance with procedures to be established by the Director.

(f) All confiscated property shall be promptly inventoried and retained by the Department under lock and key pending adjudication of the matter before the Tribal Court or Court of Indian Offenses or the pre-hearing payment of a civil fine to the Department; the payment to be in accordance with a schedule of the civil fines established by Section 15-5-4. The Director shall establish a procedure for the inventory, storage, release and disposal of confiscated property.

(g) Rangers of the Department shall not have authority to issue Tribal Hunting and Fishing License, permits or tags in the field to persons found engaged in an activity for which such license, permit or tag is required under this Code.

(h) Rangers of the Department shall not have authority to accept the payment of civil fines in the field and/or in lieu of confiscation of property pursuant to subject (f) of this provision. Civil fines may be paid and accepted and confiscated property released on payment of such fines and before a judicial hearing on the matter at any office of the Department during the prescribed office hours thereof and pursuant to procedures to be established by the Director.

(i) Rangers of the Department shall have such other duties, powers and responsibilities as may from time to time be established by the Director.

CHAPTER 3. PROCLAMATIONS AND REGULATIONS

SECTION 15-3-1. Proclamations.

(a) Annually or at such other periods as the Tribal Council shall direct, the Tribal Council shall adopt a Wildlife Proclamation.

(b) The Director of the Wildlife and Parks Department shall propose a proclamation to the Tribal Council which, when adopted by the Tribal Council either with or without amendments, shall have the force of law on the Omaha Reservation.

(c) The proclamation shall provide for the following:

(1) Fix seasons and shorten, extend or close seasons on any species of wildlife in any specific locality or localities, or upon the entire reservation, when it shall find, after investigation, that such action is necessary either to assure maintenance of an adequate supply thereof, to regulate taking, or to

OMAHA TRIBAL CODE (2013)

effectuate proper wildlife management and control.

Source: (Amended Omaha Tribal Council Resolution No. 90-55 (5-7-90)).

(1) Close or open lakes, streams and refuges, specified localities or parts thereof, to fishing, angling, trapping or hunting and to regulate and prescribe the means by which any given species may be taken as in its judgment may be best to perpetuate, restore, increase or control any species of wildlife and to assure an adequate supply thereof, and to regulate the transportation and storage of all wildlife or parts thereof within the boundaries of the Reservation and the shipment or transportation off the Reservation.

(2) Establish or change bag limits and possession limits.

(3) Establish and change territorial limits for the taking of all species of wildlife.

(4) Prescribe the manner and the means of taking or transporting of any species of wildlife including, but not limited to the prescribing of the type or kind of bait, lures, tackle, equipment, traps, firearms and weapons, tagging of game and fish or parts thereof, or any other means or device for taking such wildlife.

(5) Designate areas for hunting with bow and arrow or other specified weapons and the seasons thereof.

(6) Establish refuges or sanctuaries for game, game birds, fish or furbearing animals. When private property is to be included within a refuge, written consent of the owner must first be obtained. All boundary lines of such refuge or sanctuaries shall be posed at the usual place of entrance or exit with signs bearing the title of the Department and stating the nature of the refuge or sanctuary created, when created, and by what authority.

(7) Establish methods for checking hunters, fishermen or trappers into and out of designated areas, prescribe safety and fire control measures and other regulations as may be deemed necessary in the interest of range, game fish, or fur-bearing animal management, and the safety and welfare of hunters, trappers, fishermen, landowners and the Tribe.

(8) Establish fees for licenses, permits, tags and special hunting seasons.

(9) Establish rules and regulations governing the operation of boats upon waters located within the exterior boundaries of the Reservation. Said rules and regulations shall be in conformity with the established Rules and Regulations of the United States Coast Guard, where applicable.

(10) Establish rules and regulations governing the operation of all-terrain and recreational vehicles within reservation boundaries.

(11) Establish rules and regulations governing opening, closing and operation of parks and camping areas within reservation boundaries.

SECTION 15-3-2. Publication of Proclamation.

The Proclamation adopted by the Tribal Council shall, before its effective date, be published at least once in a newspaper of general circulation on the Reservation and shall be posted in at least three (3) public places on the Reservation.

SECTION 15-3-3. Additional Regulations.

The Tribal Council may adopt additional regulations of either temporary or permanent application governing the dates, places, means, or manner of taking wildlife or any limitations thereon and such regulations shall, when published in the manner provided for proclamations, have the force of law on the Reservation.

SECTION 15-3-4. Permits and Tags.

(a) The Tribal Council may, by proclamation, establish special permit requirements for the taking of

OMAHA TRIBAL CODE (2013)

certain species of wildlife in designated areas and/or at designated times, and no wildlife of the designated type may be taken under the specified circumstances except by persons possessing a valid permit therefor. All persons, whether Indian or non Indian, must comply with permit requirements unless otherwise provided in the permit proclamation.

(b) The Tribal Council may, by proclamation, establish tagging requirements for specified types of game and no game of the specified types may be taken except by complying with the tagging requirements. All persons, whether Indian or non-Indian, must comply with tagging requirement unless otherwise provided in the tagging proclamation.

(c) It shall be a condition precedent to the obtaining of any special permit or tags (1) that the individual receiving such possess a valid Tribal hunting or fishing license appropriate to the activity involved, or (2) that the individual seeking such permit or tag be exempt from said requirement pursuant to Section 15-4-1 of this Chapter.

CHAPTER 4. LICENSES, TAGS AND PERMITS; HUNTING, FISHING AND TRAPPING

SECTION 15-4-1. Hunting and Fishing Regulation: Tribal Members

(a) Members of the Omaha Tribe of Nebraska are free to hunt, fish and trap upon any land or waterways within the exterior boundaries of the Omaha Indian Reservation without obtaining any State or Tribal license, provided that the tribal member must obtain the consent of individual landowners before hunting, fishing and trapping upon privately-owned land within reservation boundaries.

(b) Tribal members must conform to the prohibitions, bag limits and seasons set by the Tribal Council. Except as otherwise established by Proclamation of the Tribal Council, the following shall apply to tribal members:

- (1) Tribal Members Hunting Season: From the first frost to March 15 of each year.
- (2) Tribal Member Trapping Season: to be set forth by Tribal Council proclamation annually; and
- (3) Tribal Member Bag Limits: four (4) deer per person per season or six (6) per household of multiple hunters per season; no bag limits on other game for tribal members; and
- (4) Tribal Member Season and Bag Limits for Fishing: there will be bag limits or seasonal restrictions for fishing applied to tribal members; and
- (5) Spotlighting: the deer spotlighting prohibition established by Tribal Ordinance 82-1 shall be strictly enforced as against all persons on the Omaha Indian Reservation as provided in said ordinance; and
- (6) Violations: all violations listed at Section 15-5-3 of this Code shall apply to and be enforced against tribal members to the same extent as against non-member Indians and non-Indians; and
- (7) Compliance to Laws: tribal members who take wildlife under this section are required to comply with any applicable Federal wildlife laws.

History: Subsections (b) (2) – (7) of Section 15-4-1 were amended by Omaha Tribal Council Resolution No. 86-44 (6/3/86). Subsection (b) (4) was amended from “there are no bag limits or seasonal restrictions for fishing applied to tribe members” to its current form.

SECTION 15-4-2. Hunting and Fishing Regulation: Non-Indians

(a) Non-Indians are prohibited from hunting, fishing or trapping on Omaha Tribal Trust lands, waters and waterways, including the Missouri River, with the following limited exceptions:

- (1) A "Certificate of Registration" for the hunting of migratory water fowl and other gamebirds (except wild turkeys) within reservation boundaries (including trust lands and waterways) may be issued to non-Indians pursuant to an application procedure to be established and administered by the Department upon approval of the Tribal Council. Permit fees, durations and bag limits to be set by the Tribal Council and stated on the Certificate.

OMAHA TRIBAL CODE (2013)

(2) A non-Indian landowner may trap fur-bearing animals on his own land without a tribal license consistent with the standards established by Nebraska law, such law being hereby adopted as Tribal law.

(b) Non-Indians may hunt, fish and trap on Indian-owned fee land or trust land allotments or on non-Indian-owned land owned by another within the reservation boundaries subject to the following requirements:

(1) A Restricted Tribal Hunting and Fishing license must be obtained (Not valid for Tribal trust land and waterways).

(2) Consent of the Indian landowner must be obtained and marked in written on the license by landowner's signature.

(3) Nebraska and Iowa Hunting and Fishing laws respecting seasons bag limits we hereby adopted as Tribal law in regard to non-Indians hunting, fishing or trapping on Indian-owned fee land or trust land allotments or upon non-Indian owned land owned by another within reservation boundaries and all regulatory standards, fines and fees set for hunting, fishing and trapping in Nebraska and Iowa shall apply to and be enforced as Tribal laws against such hunters, fishermen or trappers by the civil enforcement procedure and by prosecution in the United States courts.

History: Section 15-4-2 (b)(3) was amended by Omaha Tribal Council Resolution No. 86-44 (6/3/86), to add "and Iowa" after all occurrences of Nebraska and by substituting "and by prosecution in the United States courts" for "in accordance with their Code."

(4) All prohibitions established at Section 15-5-3 shall also apply to and be enforced against non-Indians under this subsection by civil enforcement procedure and by prosecution in the United States courts.

History: Section 15-4-2 (b)(4) was amended by Omaha Tribal Council Resolution No. 86-44 (6/3/86), to add "and by prosecution in the United States courts."

(c) Non-Indian hunting, fishing and trapping within reservation boundaries on non-Indian-owned land owned by the hunter, fisherman or trapper, or by members of his immediate household as defined at Section 15-1-2(j) is regulated as follows:

(1) The deer spotlighting prohibitions of Tribal Ordinance 82-1 shall be enforced against all persons for any spotlighting actively within the exterior boundaries of the Omaha Indian Reservation without regard to land ownership.

(2) Non-Indian land owners may hunt, fish and trap on their own land within reservation boundaries without obtaining a tribal license but must conform their conduct to the standards established by Nebraska Hunting and Fishing law as to seasons and bag limits, said laws being, hereby, adopted as Tribal law.

(d) The prohibitions established by Section 15-5-3 shall also apply to and be enforced against non-Indians by civil enforcement procedure in regard to non-Indian owned Fee land within reservation boundaries.

(e) To the extent that Tribal licenses are required under this section, the license must be in the possession of the hunter, fisherman or trapper to whom issued at all times while engaged in the licensed activity.

(f) Resident non-Indians married to Omaha Indians may hunt, fish and trap on any lands or waters within the reservation to the same extent as any tribal member.

(g) The Tribal Council retains authority to issue "Certificates of Registration" authorizing limited hunting or fishing on the Omaha Indian Reservation by designated non-Indians who have an economic relationship with the Omaha Tribe. The Director shall develop a registration book and form for recording and issuing, said certificates, which shall be issued for express vote of the Tribal Council.

OMAHA TRIBAL CODE (2013)

SECTION 15-4-3. Hunting and Fishing Regulation: Non-member Indians.

(a) Non-member Indians are subject to the identical regulatory standards for hunting, fishing and trapping as are non-Indians.

SECTION 15-4-4. Tagging and Transportation.

The tag issued must be signed, dated and securely attached to the animal as provided in the instructions on the tag at the time the game is brought to any roadway or placed in any vehicle or transportation device.

(a) Tagging allows the game to be transported or stored by the hunter

(b) No person shall transport or possess any game animal without the identifiable parts, head, hide, feet, or feather.

History: Added by Omaha Tribal Council Resolution No. 86-44 (6/3/86).

SECTION 15-4-5. Non-Licensees.

No big game licensee hunting in the field during any game season shall be accompanied by a non-licensee carrying a firearm or any other device capable of killing wildlife. A non-licensee is a person not having a permit or license.

History: Added by Omaha Tribal Council Resolution No. 86-44 (6/3/86).

CHAPTER 5. PROHIBITED HUNTING, FISHING AND OUTDOOR RECREATIONAL ACTIVITIES.

SECTION 15-5-1. Prohibited Activities; Civil Violations; Sanctions.

Certain hunting, fishing and outdoor recreational activities have been found to be detrimental to the wildlife and environment of the Omaha Reservation and are prohibited. Engaging in an activity prohibited by this Chapter constitutes a violation of this Code and renders the violator subject to the civil sanctions and procedures established in Chapter 6.

SECTION 15-5-2. Prohibited Activities-Relation to U.S.C. § 1165.

The Omaha Tribal Council does here by declare and give notice that engaging in a hunting, fishing or trapping activity prohibited by Section 15-5-3 of this Chapter shall also constitute the act: of "going upon" the Omaha Reservation "without the lawful authority or permission of the Tribe for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries or fish therefrom," all within the meaning of Title 18, United States Code, Section 1165, and P.L. 47-79, the Lacey Act: Amendment of 1981.

SECTION 15-5-3. Prohibited Activities.

The following activities are prohibited within the exterior boundaries of the Omaha Indian Reservation. Violators are subject to a civil fine or assessment if found engaging in prohibited activities and are subject to firearms and related property seizure and forfeiture proceedings as established by Chapter 6.

(a) **Spotlighting:** It is unlawful for any person or group of persons to throw or cast rays of light from a spotlight or other artificial light into any open field or forest wherein game animal may be or may reasonably be expected to be, while having in their possession or under their control or in the possession of another nearby, a firearm or other implement whereby any game animal could be killed with the aid of such artificial light. Provided, however, that all officers of the Wildlife and Parks Department, while in lawful performance of their duties, shall be exempted from this rule.

(b) **Killing or Possession of a Fawn or Doe.** It is a violation of this section for any person or persons to kill or knowingly have in his or their possession a fawn or doe deer, or carcass thereof, at any time unless lawfully authorized by the Wildlife and Parks Department.

(c) **Shooting Upon a Lake or Pond:** it is a violation of this section for any person to shoot upon or over any lake or pond on the Omaha Reservation using firearm other than a shotgun.

OMAHA TRIBAL CODE (2013)

- (d) Legal Guns and Bows. It is unlawful to hunt the following with other than the specified weapon:
- (1) Big game:
 - (A) shotgun of 22, 410, 16, 12, 30 gauge or larger firing a single slug.
 - (B) any bow of less than 40 pounds draw with which an arrow can be cast less than 130 yards. Arrows must have broadhead points with sharpened steel cutting edges. Crossbows are illegal.
 - (C) muzzle loading rifles of at least 40 caliber.
 - (D) 357 magnum, and 44 magnum handguns, using magnum ammunition with soft-based or hollow-pointed bullets.
 - (E) center-fire rifles or center-fire handguns chambered for a center-fired rifle cartridge. No fully automatic firearm may be used. All bullets must be soft-nosed or hollow-pointed.
 - (F) 22 caliber rifles may be used only upon open range acres designated by the Wildlife and Parks Department.
 - (2) Turkey: 22 caliber rifle, shotguns and bows as are legal for big game as well as all shotguns fired from the shoulder.
 - (3) Waterfowl: all shotguns fired from the shoulder. Steel shot will be used in all shotguns; lead shot is prohibited for the hunting of waterfowl.
- (e) Carrying or Handling Firearms While Under the Influence of Alcohol. It is unlawful for any person to carry or use any firearm on the Omaha Reservation while under the influence of alcohol.
- (f) Shooting From Road. It is a violation of this section for any person to shoot any type of firearm from or across any graded or maintained public road on the Omaha Reservation. "Roads," for purposes of this section are those areas between six feet on each side of the pavement or the regular beaten path of any motor vehicle.
- (g) Using a Vehicle to Take Game. It is unlawful for any person to harass or drive game animals or game birds by means of a motor vehicle or to shoot from such vehicle at game animals or game birds.
- (h) Damaging Property by Gunfire. It is a violation of this section for any person to knowingly damage by means of gunfire, any overhead wires, conductors, or poles supporting such wires or conductors or any other-property of either the tribe, the Federal Government, or any individual.
- (i) Exceeding the Bag Limits and Possession. It is a violation of this section for any person to shoot or otherwise take or possess more than the allowed number of any game animal or any game bird or species of fish. Bag and possession limits will be established in accordance with Chapter 3 of this Code. All wildlife possessed in excess of these limits shall additionally be seized and forfeited to the Omaha Tribe.
- (j) Careless Use of a Firearm. It is a violation of this section for anyone to carry, handle or use any firearm in such a manner as to carelessly endanger the life, limb or property of another.
- (k) Hunting or Possession of Game out of Season. It is violation of this section for any person, except as authorized by the Wildlife and Parks Department, to hunt, kill, wound or otherwise take, capture or have in his possession any game animal, or any game bird as herein defined, when the season has not been declared open.
- (l) Hunting or Fishing Without Required Licenses Permits or Tags: It is a violation of this section to hunt or fish without having first obtained all required licenses, permits and tags and/or to hunt or fish without having such licenses, permits or tags on one's person.
- (m) Hunting During Daylight Hours Only. It is a violation of this section to take, pursue, or kill game animals or game birds as herein defined on the Omaha Reservation during times other than during daylight hours, except for the hunting of raccoons. Daylight hours shall be from 1/2 hour before sunrise until sunset.
- (n) Hunting on Wildlife Refuges. It is a violation of this section for any person to knowingly or willfully hunt or otherwise take any game birds or game animals on any posted wildlife refuge or sanctuary

OMAHA TRIBAL CODE (2013)

within the boundaries of the Omaha Indian Reservation, unless otherwise authorized by the Omaha Wildlife and Parks Department.

(o) Killing or Taking Protected Species: It is violation of this section for a person to hunt or otherwise take any protected species, unless otherwise authorized by the Omaha Wildlife and Parks Department.

(p) Shooting Fish. It is a violation of this section for any person to shoot or attempt to shoot with any type of firearm any fish in the waters of the Omaha Reservation.

(q) Fishing Out of Season. To the extent that fishing seasons are established by or pursuant to this Code, fishing out of season will be an offense under this section.

(r) Use of Nets or Traps. It is a violation of this section for any person except those specifically authorized by vote of the Tribal Council to set or use any trap, net or other such device to take any fish in waters on the Omaha Reservation. Unauthorized use of any trap, net or other such device shall, in addition to any civil fine provided, subject such nets, trays or other devices to seizure and confiscation by the Omaha Wildlife and Parks Department.

(s) Planting of Fish. It is a violation of this section for anyone to plant, place or attempt to plant or place any type of fish in any body of water on the Omaha Reservation without the authorization of the Omaha Wildlife and Parks Department.

(t) Littering. It is a violation of this section for any person to deposit garbage, refuse, ashes, junk, glass, bottles, cans or any other form of litter or debris anywhere on the Omaha Reservation, except in containers or dumping grounds which are provided and designated for such use.

(u) Disobeying a Tribal Ranger. It is a violation of this section for any person to fail to obey a lawful order given by an authorized officer of the Omaha Wildlife and Parks Department, while such officer is in the course of performing his duties.

(v) Use of Lost License or Permit. It is a violation of this section for any person, other than the issued party, to use a lost license, permit or tag or one which is otherwise issued to another party.

(w) Making a False Statement. It is a violation of this section for any person to knowingly swear and affirm to any false statement while applying for any type of hunting or fishing permit, license or tag.

(x) Allowing Fires to Spread. Any person who makes a campfire or fire and negligently allows it to spread and do damage to any property shall be in violation of this section.

(y) Importing Wild Animals, Birds or Fish. It is a violation of this section for any person to import any species of live animal, bird or fish onto the Omaha Reservation, except recognized domesticated animals or birds, without first obtaining permission from the Omaha Wildlife and Parks Department.

(z) Impersonating a Ranger. It shall be unlawful for any unauthorized person to falsely represent himself to be a Ranger of the Omaha Wildlife and Parks Department.

(aa) Setting Traps Without a Permit. It shall be a violation of this section for any person to set a trap or traps to capture, kill or attempt to capture or kill any animal on the Omaha Reservation without first procuring a trapping permit from the Omaha Wildlife and Parks Department.

(bb) Hooking/Netting Fish. It shall be unlawful for any person to take any aquatic wildlife of any kind in any of the waters in the Reservation with any kind of spear, grab or snag hook, or by the use of a jack light, or other artificial light, or by means of a set line or night line, or any kind of net or seine, or more than two hooks, one line, or any kind of firearms, or any explosive substance or combination of explosives which have any tendency to kill or stupefy fish, or by electricity or electrical devices.

(cc) Closed Fishing Areas. It shall be unlawful for any person to take aquatic wildlife from waters closed by proclamation or regulation of the Tribal Council

(dd) Using Fish Parts. It shall be unlawful to take aquatic wildlife parts, fish parts or game fish as bait.

(ee) Selling Game. It shall be unlawful to sell, offer for sale, or have in possession with intent to sell wildlife or the carcass of any wildlife, excepting all species of rabbit or hare and the hide of a legally killed

OMAHA TRIBAL CODE (2013)

animal, or with the consent of the Department.

(ff) Restrictions on Certain Bird Hunting. It shall be unlawful for any person to shoot at or kill any ducks, geese, swans, snipe, sandpipers, grebs, plovers, willet, curlews, godwits, avocets, coots or mud hens, except by a proclamation to be issued annually, by the Tribal Council in accordance with Federal Regulations. It shall be unlawful to have in possession more than two days legal limit of any game birds mentioned in this section. It shall be unlawful to use sneak boats, or sink boxes at any distance greater than one-half mile from the nearest shoreline or island or marsh vegetation such as rushes, rule or grass, and not at all except in such localities as are designated by the Board. It shall be unlawful to hunt, shoot at or kill ducks or geese with a rifle.

(gg) Silencing Prohibited. It shall be unlawful for any person to take into a field or forest, or have in his possession while in the pursuit of game birds or game or fur-bearing animals, any device or mechanism designed to silence muffle, or minimize the retort of any firearm.

(hh) Damaging Tribal Property. It shall be unlawful for any person to shoot at, shoot, deface, damage, remove, or cause to be damaged, destroyed, or removed, any screens, dams, fishways, or fish traps owned, controlled, or operated by the Department or Tribe; or to shoot, shoot at, damage, destroy, or remove any road signs placed upon any of the roads or highways of this Reservation.

(ii) Hunting with Cross Bow. It shall be unlawful for any person to hunt with a cross-bow or similar device.

(jj) Using Permit, License Tag of Another. It shall be: unlawful for any person to use the permit, tag or license of another person or to fail to exhibit for inspection the proper permit, tag or license and/or any fish and game in possession of an officer upon demand.

(kk) Garbage Disposal. It shall be unlawful for any person to deposit litter; garbage, debris, or other waste on established camp grounds or waters except in places so designated for this purpose. Flammable material maybe disposed of by burning in a safe manner, and all other wastes must be removed to sites or containers for waste disposal. On all other Reservation lands, such material must be buried or removed to sites or containers for waste disposal.

(ll) Fire Safety. It shall be unlawful for any person to leave an open fire unattended, to fail to extinguish all camp fires, or to fail to report a wild fire.

(mm) Use of Motorized Vehicle. It shall be unlawful for any person, to molest, take or attempt to take non-aquatic wildlife with an aircraft or motor driven vehicle, except in the performance of official duties under the supervision of the Department.

(nn) Injury to livestock or Crops. It shall be unlawful for any person to destroy, injure or molest livestock, growing crops, personal property, or other improvements:

(oo) Reckless Conduct. It shall be unlawful for any person to handle or discharge a bow and arrow or firearm or in a careless or reckless manner or with wanton disregard for the safety of human life and property.

(pp) Waste Water Disposal. It shall be unlawful for any person to dispose of waste water on the ground from campers, trailers and mobile homes except at authorized disposal areas.

(qq) Unless and except as permitted by regulation provided by this article, it shall be unlawful for any non-tribal member to harvest any mushrooms of the genus *Morchella Esculenta* (Morel Mushroom) on any Tribal Trust lands. Any person found in violation of this section shall be subject to penalties within section 15-5-4 (c).

Source: Omaha Tribal Council Resolution No. 97-115 (5-30-97).

SECTION 15-5-4.

Unless otherwise established by this Code, or by proclamation or legislation of the Omaha Tribal Council:

(a) The minimum fine for violation of parts (b), (o), (s), (u), and (y) hereof shall be \$75.00 for the

OMAHA TRIBAL CODE (2013)

incident, and \$100 for any subsequent incident, the exact fine to depend upon the circumstances of the incident and the extent of damages done provided that in any case where at trial it is proven that the actual damages done by the violator exceed the fines set by, this Section, the actual damages proven shall be awarded to the Department.

(b) The fine for violating any other part of Section 15-5-3 unless otherwise specified shall be \$25.00 for the first incident, \$50.00 for any subsequent incident, the exact fine to depend upon the circumstances of the incident and the extent of damages done, provided that in any case where at trial it is proven that the actual damages done by the violator exceed the fines set by this section, the actual damages proven shall be awarded to the Department.

(c) Unlawful harvesting of All Species of Morel Mushrooms is a \$25.00 fine plus an additional \$10.00 per pound.

Source: Omaha Tribal Council Resolution No. 97-115 (5-30-97)

(d) List of damages for killing a species without consent:

- (1) Deer.....\$350
- (2) Turkey.....\$100
- (3) Pheasant..... \$25
- (4) Bobcat.....\$250
- (5) Woodchuck.....\$250
- (6) Partridge..... \$25
- (7) Quail..... \$25
- (8) Prarie Chicken... \$25
- (9) Waterfowl..... \$25
- (10) Cottontail..... \$10
- (11) JackRabbit.....\$250
- (12) Squirrel..... \$25
- (13) Black Squirrel... \$25
- (14) All Fish..... \$10
- (15) All Other Mamals. \$25
- (16) Bison.....\$3,000

Source: Omaha Tribal Council Resolution No. 90-09 (10-12-89).

CHAPTER 6. CIVIL ENFORCEMENT PROCEDURE

SECTION 15-6-1. Issuance of Civil Citation; Form

Source: Omaha Tribal Council Resolution No. 85-85 (10-08-81).

(a) Authorized Enforcement Officers, as defined in Section 15-1-2 of this Code shall issue civil citations to persons engaging in activities prohibited under Chapter 5 of this Code (hereinafter "violators") consistent with the standards and limitations set out in Chapter 2.

(b) The Director shall prescribe the form of the civil citation to be issued to violators, provided that said citation shall contain at a minimum places for entry of the following information:

- (1) The name and mailing address of the violater

OMAHA TRIBAL CODE (2013)

- (2) The date and place of the alleged violation
- (3) The violation alleged to have taken place
- (4) The time and place upon which court scheduling is contemplated

(c) A report on a form and under a procedure to be prescribed by the Director shall be filed with the Department for each citation issued.

SECTION 15-6-2. Property Confiscation by Rangers; Receipts; Reports.

(a) The Authorized Enforcement Officer shall confiscate certain property of violators consistent with the standards and limitations set out in Section 15-2-2(f) and shall transport all such confiscated property to the nearest inventory and storage office of the Department for receipt and retention pursuant to a procedure to be prescribed by the Director.

(b) Whenever a citation, is issued and property is confiscated the enforcement officer shall provide the violator with a signed receipt for any, property seized, said receipt to identify the violator by name, if known, and the Officer by name, the date of seizure, and an itemized listing of that property seized.

(c) A report on a form and under a procedure to be prescribed by the Director shall be filed with the Omaha Wildlife and Parks Department with respect to the property seized from each violator.

SECTION 15-6-3. Filing of Civil Action; No Fee; Time Limits; Answer; Long-Arm Statute.

(a) Within ten (10) days of the issuance of any citation under this Chapter, the Department shall cause to be filed in the Court a civil complaint for damages against the violator in question and seeking as damages:

- (1) Payment to the Department of a civil fine pursuant to the warrant schedule established by the Tribal Council, or
- (2) Forfeiture of property seized, or
- (3) Both civil fine and forfeiture

(b) There shall be no fee or court costs for the filing of such action

(c) A defendant in such proceeding may file an answer to such complaint at any time prior to forty-eight (48) hours before the date or time of hearing upon the complaint.

(d) In the event the Department fails to file the required complaint within the required ten-day period, further action against the violator shall be barred and any property confiscated shall be turned over to the violator upon demand.

(e) Long Arm Statute: Any person who engages in activity prohibited by Chapter 5 of this Code does by such conduct subject himself or herself to the personal jurisdiction of the Omaha Court, notwithstanding that said person may have removed himself from the territorial jurisdiction of said Court after being cited for the violation.

(f) Service of Process: Service of civil complaints filed under this Chapter shall be by mail to the address provided by the violator at the time the citation is issued or another address subsequently provided by the violator. If no address is provided by the violator, service by publication in a newspaper of general circulation in the area of the Omaha Indian Reservation shall constitute valid service upon the defendant.

SECTION 15-6-4. Issuance of Notice and Scheduling of Hearing by Court Clerk.

The Clerk of the Court in which the Department's civil complaint is filed shall schedule a hearing on the complaint and cause notice thereof to be issued in the manner prescribed for other civil complaints; provided, however, that in the absence of an address to which notice of hearing to the Defendant may be sent, notice of the proceeding shall be published in a newspaper of general circulation in the area of the Omaha Reservation.

OMAHA TRIBAL CODE (2013)

SECTION 15-6-5. Subject Matter Jurisdiction Conferred on Tribal Court.

The Omaha Tribal Court, when established, and the Omaha Court of Indian Offenses, so long as it may exist, shall have subject matter jurisdiction to adjudicate all issues of law and fact, and to enter decrees appropriate to such jurisdiction, pertaining to civil proceedings or complaints filed by the Department pursuant to this Chapter.

SECTION 15-6-6. Pre-Payment of Civil Fines.

At any point prior to entry of judgment in any civil proceeding initiated under this Chapter a violator may pay the civil fine sought by the Department. The Department shall ordinarily seek a fine within the ranges set by Section 15-5-4 or by other proclamation or legislation of the Tribal Council. Upon receipt of such payment the Department shall return all property confiscated and shall file a Notice of Dismissal pursuant to the Omaha Civil Rules of Procedure, provided that the Director, Wildlife and Parks Department shall have the authority at his discretion to refuse any prepayment offer and to require payment of higher damage assessed in lieu of trial, and any court costs incurred and if no pre-trial settlement is possible, to proceed to trial and seek to prove actual damages done by the violator.

SECTION 15-6-7. Subsequent Civil Proceedings; Enforcement of Judgments; Appeals

Proceedings subsequent to the filing of the Defendant's answer, including enforcement and garnishment proceedings upon any judgment granted, and appeal, shall be conducted in conformity with the Omaha Rules of Civil and Appellate Procedure.

SECTION 15-6-8. Filing Fees Waived.

The Department shall not be required to pay any filing fee or court cost to the Court for filing of complaints under this Title or for service of process, witness fees or jury fees; however, the ordinary schedule of filing fees, cost-of-service of process, witness fees or jury fees which would have been incurred by the Department but for this section, shall be assessed as costs against any violator against whom judgment is entered pursuant to this Title.

CHAPTER 7. WOODCUTTING.

Source: Title 15, Chapter 7 was added by Resolution No. 85-85 of the Omaha Tribal Council, October 23, 1985.

SECTION 15-7-1. Omaha Tribal Wildlife and Parks Department.

(a) The Omaha Tribal Wildlife and Parks Department and Tribal Police Department shall enforce, govern and monitor all woodcutting on lands held in trust by the United States for the Omaha Tribe of Nebraska or the members thereof.

SECTION 15-7-2. Permits.

(a) Class 1 woodcutting permits shall be issued to members living on the reservation who burn the wood themselves. Said permits shall be valid for a period of thirty (30) days.

(b) Class 2 woodcutting permits shall be issued to members who live off the reservation who burn the wood themselves. Said permits will be valid for a period of thirty (30) days.

(c) Class 3 woodcutting permits for resale shall be issued to members. Said permit shall be valid for a period of thirty (30) days.

SECTION 15-7-3. Permit Fees.

There shall be paid to the Omaha Tribal Wildlife and Parks Department, upon issuance of said woodcutting permit, the following permit fees:

(a) Class 1 permit-no charge

OMAHA TRIBAL CODE (2013)

- (b) Class 2 permit-no charge
- (c) Class 3 permit-a charge of one hundred dollars (\$100.00).

SECTION 15-7-4. Woodcutting Regulations.

Unless otherwise designed by the Omaha Tribal Council, the following rules shall be followed for cutting wood on lands held in trust by the United States for the Omaha Tribe of Nebraska or members thereof, to-wit:

- (a) No permit shall be issued to nonmembers;
- (b) There shall be no woodcutting in areas not so designated;
- (c) Woodcutting will be permitted by members for their own use who are lessees of trust;
- (d) No Class 3 permits shall be issued without a letter of consent to be a vendor, from the Tribal Wildlife and Parks Department;
- (e) It shall be unlawful to cut fences or destroy any tribal property;
- (f) It shall be unlawful to cut wood on trust property without possession of a permit;
- (g) It shall be unlawful to burn any branches or junk wood in woodcutting areas;
- (h) Woodcutters shall clean up wood in the area as they cut;
- (i) Woodcutters shall pile all small wood and branches that are not used in a central place;
- (j) Woodcutters must contact the Omaha Tribal Wildlife and Parks Department if the gates to the woodcutting areas are locked;
- (k) No firearms are allowed in the woodcutting areas unless the individuals have a legal hunting permit and during wildlife hunting season; and
- (l) Nontribal members shall not be issued a cutting wood permit unless the nontribal member is the spouse of the woodcutter having a permit.

SECTION 15-7-5. Schedule of Fines.

- (a) The minimum fine for violation of the Woodcutting Ordinance of the Omaha Tribe of Nebraska shall be \$75.00 for the first incident and \$100.00 for any subsequent incident, the exact fine to depend upon the circumstances of the incident and the extent of the damages done, provided that in any case where at trial it is proven that the actual damages done by the violator exceed the fines set by this section, the actual damages proven shall be awarded to the Department.
- (b) Chapter 6, Civil Enforcement Procedures of the Omaha Tribal Code shall govern the Woodcutting Ordinance of the Omaha Tribe of Nebraska.
- (c) The Omaha Tribal Wildlife and Parks Department and the Tribal Police Department shall have the authority to confiscate any woodcutting equipment except motor vehicles in the possession, custody or control of the person cited at or about the time of the violation for which the citation is issued, or which was otherwise directly involved in the occurrence of the violation.