

WINNEBAGO TRIBAL CODE  
TITLE 8

TITLE 8  
NATURAL RESOURCES  
(Revised November 6, 2009)

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ARTICLE I  
WILDLIFE AND PARKS  
GENERAL PROVISIONS

8-101	Authority.	8-105	Winnebago Wildlife and Parks
8-102	Policy.		Commission.
8-103	Intent.	8-106	Name.
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**8-101 Authority.** This Wildlife and Parks Code is enacted pursuant to:

1. The Constitution of the Winnebago Tribe of Nebraska as approved by the Secretary of the Interior on April 3, 1936; and
2. All relevant treaties entered into by the Winnebago Tribe of Nebraska and the United States of America; and
3. Title 16, United States Code, section 3371 et seq.; the “Lacey Act Amendments;” and
4. Title 18, United States Code, section 1163, 1164 and 1165. [TCR 87-77]

**8-102 Policy.** The Winnebago Tribe has historically, through tradition, custom, and ordinance, regulated and controlled hunting and fishing on reservation lands in order to protect and enhance Tribal resources and to ensure that those rights guaranteed by the United States government shall survive and inure to the benefit of future generations. It is the policy of the Tribal Council, in furtherance of conservation of Tribal natural resources for present and future generations, to implement Tribal civil and regulatory jurisdiction over hunting, fishing and recreation activities on reservation lands, and to provide fair and equitable procedures for every person who engages in activities subject to this Article. All wildlife now and hereafter found within the exterior boundaries of the Winnebago Indian Reservation, not held by private ownership lawfully acquired, are hereby declared to be property of the Winnebago 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. This Code and its provisions are regulatory and civil in nature. Penalties and fines imposed thereby are intended as restitution for the depletion of natural resources, and to discourage conduct contrary to these regulations, which have been adopted as codifying the prudent management interests of the Tribe’s natural resources. All prohibition established by this Code shall apply to and be enforced against all persons by civil enforcement procedure and by prosecution in the United States Courts. [TCR 87-77, 88-12, 93-84]

**8-103 Intent.** It shall be and is hereby established as the policy and intent of the Winnebago Wildlife and Parks Commission in conjunction with the Winnebago Tribal Council to establish the following:

1. To provide an adequate and flexible system for the protection and conservation of all Wildlife and Parks resources within the reservation of the Winnebago Tribe;
2. To provide for the establishment of rules, regulations and statutes relating to the harvest of Wildlife and Parks on the reservation of the Winnebago Tribe;
3. To provide for the general management and supervision of all wildlife and fishery activities on the reservation of the Winnebago Tribe;

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4. To provide for the establishment of license requirements and to define prohibited acts and penalties in regard to wildlife and fishery activities on the reservation of the Winnebago Tribe. [TCR 87-77, 87-134, 93-84]

**8-104 Effective Date.** This Code supersedes all prior Codes regarding hunting and fishing, and shall become effective on the date of Tribal Council approval. [TCR 87-77]

**8-105 Winnebago Wildlife and Parks Commission.**

1. The Commission shall be appointed by the Tribal Council of the Winnebago Tribe of Nebraska. It shall be called the Winnebago Wildlife and Parks Commission. Said commission appointees shall serve for a three years' tenure. Said appointments shall be made by the Tribal Council and be made effective during the third week of October. Furthermore, said Commission shall consist of five Winnebago Tribal members, which include a chairman, vice-chairman, and secretary-treasurer. All officers shall be elected from within the commission membership.
2. Meetings: Any special meeting may be called at the discretion of the chairman or of a majority of other members of said commission should the necessity arise. The commission shall meet at least once every quarter, to conduct commission business, on a regular basis. Three members in attendance at a meeting shall constitute a quorum.
3. Vacancies: In the event that a vacancy should occur, the commission will recommend a new commissioner to serve for the remaining unexpired term. All such recommendations are subject to the approval of the Tribal Council.
4. Compensation of the members of said commission shall be set by the Tribal Council, to be paid out of the commission budget.
5. The lead Conservation Officer and professionals such as biologists or others with fish and/or wildlife expertise shall be hired/terminated or contracted by the commission as needed, subject to applicable contracting criteria as established by the Tribal Council. The lead Conservation Officer shall be responsible for hiring and supervising support staff and additional Conservation Officers as necessary to meet current needs of the department. Established Tribal personnel policies and procedures shall apply to all positions within the department. [TCR 05-02]
6. The commission shall submit an annual budget request to the Tribal Council. The Tribal Council shall allocate a commission budget. [TCR 87-77, 87-134, 88-91, 05-02]

**8-106 Name.** This Code of regulations and any additional statutory provisions pertaining to Wildlife and Parks adopted by the Tribal Council of the Winnebago Tribe shall be known as the Wildlife and Parks Code of the Winnebago Tribe and shall be enforced by the Tribal Court. [TCR 87-77, 88-91, 93-84, 05-02]

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AGREEMENTS

8-107 Cooperative and reciprocal agreements.

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**8-107 Cooperative and reciprocal agreements.** The Winnebago Wildlife and Parks Commission is hereby authorized, subject to the approval of the Winnebago Tribal Council, to enter into reciprocal and cooperative agreements with the State of Nebraska and any other governments or government agencies, federal or otherwise, for the purposes of promoting and implementing fishery and wildlife management programs. All such agreements will become part of the Wildlife and Parks Code. [TCR 87-77, 88-91]



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DEFINITIONS

8-108 Definitions, interpretations.

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**8-108 Definitions, interpretations.** The following terms, words, and definitions shall have the meaning so ascribed to them in the respective sections unless a different meaning clearly appears from the context:

1. "All-terrain vehicle" means any motorized vehicle designed for or capable of travel over unimproved terrain.
2. "Antlered" means any animal with visible antlers.
3. "Bag limit" means maximum number of a game species which may be legally taken per day and shall include maximum number of each sex.
4. "Bait" means any food item including but not limited to shelled or unshelled grains, shucked or unshucked grains, beans, alfalfa, hay, food supplements, salt, or any other item which entices or attracts game to a particular place.
5. "Bait fish" means any fish or minnow which is used for angling, or the capture or taking of fish.
6. "Baiting" means the act of putting out, scattering, or in other ways distributing bait for the purpose of attracting and taking any game animal or hunting with bait.
7. "Big game" shall be defined as wild turkeys, white-tailed deer, mule deer, antelope, moose, elk, and buffalo, for which harvest may be established by the Winnebago Tribe.
8. "Big game tag" means a tag issued with a big game permit which must be attached to the big game animal before transporting.
9. "Closed area" means any area where, by authority of the commission, hunting and trapping is prohibited and to which access or any other activities may not be allowed if signs so state in conspicuous places along access routes.
10. "Closed waters" means any lake, pond, river, stream, body of water, or any part thereof within the Winnebago Indian Reservation wherein it shall be unlawful to fish, hunt or trap. Said waters may be closed to one or all of these activities depending on the designation of these waters.
11. "Carcass" means the dead body of any wild animal to which it refers including the head, hair, skin, plumage, skeleton, or any other parts thereof.
12. "Cold water fishery" means any lake, pond, stream, creek or river or part thereof which is managed for trout, and where the use of live bait and baitfish is prohibited.
13. "Commission" means the Winnebago Wildlife and Parks Commission, otherwise known as the game commission.
14. "Creel limit" means the maximum number of any species of fish which may be legally taken per day.
15. "Fish" means any effort made to kill, injure, disturb, capture or otherwise possess fish in and from the waters of the Winnebago Indian Reservation.
16. "Furbearer" means animals which are taken primarily for their pelt.
17. "Game" means all wild animals and birds for which hunting seasons have been established by provisions contained within this Code.
18. "Game fish" means all species of sturgeon, salmon, trout, pike, catfish, bullheads, sunfish, bass, bluegill, crappies, perch, walleye, and sauger families of fish species.
19. "Hunt/trap" means any effort to kill, injure, capture or disturb any wild animal or wild bird as defined herein.
20. "License" means the primary document issued by the authority of the Winnebago Tribe which grants authority to engage in activities covered by the provisions of this Code.
21. "Live bait" means the use of any bait fish, amphibian, or any other animal while alive for angling.

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22. “Loaded firearm” means a firearm is considered loaded if there is a shell in the chamber, shells in the receiver or magazine, if attached to the firearm.
23. “Member” means a person who is enrolled or is eligible for enrollment as a member of the Winnebago Tribe of Nebraska.
24. “Motor vehicle” means a motorized vehicle including any trailer or towed vehicle thereof which may travel on land, water, snow, ice or air.
25. “Non-antlered” means any animal not classified as antlered.
26. “Non-game species” means all species of birds and animals which are not listed or covered or provided for within the provisions of this Code and are protected.
27. “Non-Indian” means person who is not enrolled or eligible for enrollment as a member of a federally recognized Indian tribe.
28. “Non-member Indian” means any person who is enrolled or is eligible for enrollment as a member of a federally recognized Indian tribe other than the Winnebago Tribe of Nebraska.
29. “Non-resident” means person other than residents as defined in numbers (36) and (37) below.
30. “Officer” means a Conservation Officer or enforcement officer of the Winnebago Tribe or any other law enforcement officer of the Bureau of Indian Affairs, or the state, or the federal government.
31. “Open season” means the time specified by rule, regulation, order, resolution or statute of the Winnebago Tribal Council when it shall be lawful to hunt, fish or trap for any animals, birds or fish. Each period of said time shall be specified as an “open season” and limited to the period during each day when these activities can legally take place.
32. “Permit” means a secondary document including stamps, requiring a license as a prerequisite to its issuance, which grants authority to engage certain specified activities under the in provision of this Code, within the parameters of the Tribal rules and regulations governing these activities.
33. “Possession” means physical possession or control of any undomesticated fish, or game or non-game animal or parts thereof, on one’s person, premises, motor vehicle, or public or private place of processing or storage.
34. “Possession limit” means maximum number of game species which may be possessed.
35. “Predator” means animals which kill and eat flesh of other animals.
36. “Recreational vehicle” means any snowmobile or all-terrain vehicle engaged in off highway recreational use.
37. “Reservation” means all territory within the exterior boundaries of the Winnebago Reservation (including Flowers Island and other Tribal land located east of the Missouri River) as set forth in the Winnebago Treaty of March 8, 1865 (14 Stat. 671) and the twenty sections included in the strip purchased in Nebraska for Wisconsin Winnebagos (18 Stat. 170), June 22,1874 and such lands as may be added thereto by Congress or the Tribe or reaffirmation of the title to lands through the Courts to the Tribe, except as otherwise provided by law. This definition of Reservation includes all rights-of-way, waterways, streams, lakes, highways, railroad rights of way, mineral rights, etc.
38. “Resident of the reservation” means a person whose domicile is within the Winnebago Indian Reservation.
39. “Resident of Nebraska” means a person whose domicile is within the state of Nebraska.
40. “Restricted water or trout water” means that fishing methods of any lake, pond, stream or any part thereof may be limited to the use of artificial lures or bait other than live fish.
41. “Rough fish” means all fish species not included in the game fish families.
42. “Seasons” means all of the time during the entire year except during the “open season” as specified by regulation or ordinance of the commission and the Winnebago Tribal Council.
43. “Sell” means to offer or possess for sale, barter, exchange or trade or the act of selling, bartering, exchanging or trading.
44. “Small game” shall be defined as including the following: rails, snipe, woodcock, sharp tailed grouse, prairie chicken, bobwhite, ring-necked pheasant, gray partridge, mourning dove,

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- cottontail rabbit, eastern fox squirrel, and gray squirrel. Small game does not include wild turkeys or water fowl.
45. “Snagging” means the use of hooks or hooks and line with or without a pole, to impale or attempt to impale fish in a manner other than natural feeding behavior of fish.
  46. “Snowmobile” means any motorized vehicle designed for travel on snow and/or ice and is steered and supported in whole or in part by skis, belts, cleats, runners, tracks, or low pressure tires.
  47. “Specified areas” means areas where the taking of game animals is restricted to the specifications set forth by rules, regulations, statutes, or resolutions set forth by the commission in conjunction with the Winnebago Tribal Council.
  48. “State” means the state of Nebraska and/or Iowa.
  49. “Tag” means a card, label or other identification device issued for attachment to the carcass of any game animal.
  50. “Take” means to fish, angle, hunt, pursue, catch, capture, seine, trap, kill, or otherwise possess any wildlife or any attempt to commit any of these acts.
  51. “Tribe” means the Winnebago Tribe of Nebraska.
  52. “Tribal Court” means Winnebago Tribal Court.
  53. “Trot line” means any line used for fishing with one or more hooks which is not used with a conventional rod and reel and is left unattended which shall include but not be limited to the terms throw line, set line, or limb line.
  54. “Unprotected species” means those species of birds and animals which are not protected under the provisions of this Code or federal law, and for which year round hunting is allowed.
  55. “Waterfowl” means any wild geese, brants, coots, or wild ducks.
  56. “Wildlife” means any form of animal life generally living wild in a state of nature, endowed with sensation and the power of voluntary motion, including all wild mammals, birds, fish, reptiles, amphibians and their eggs, nests and spawn, or any animals, birds, or fish. [TCR 87-77, 87-134, 88-91, 92-19, 93-84, 10-17]

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WILDLIFE AND PARKS COMMISSION REGULATIONS

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**8-109 Regulations and statutes: contents.** The Wildlife and Parks Commission may from time to time recommend to the Winnebago Tribal Council for the adoption, amendment, promulgation, or repeal of such regulations and statutory provisions as are consistent with the policy, objectives and intent of this Code as it may deem necessary or desirable in the public interest in carrying out the policy and provisions of this Code. Those hunting and fishing seasons currently in effect shall remain in effect until changed as provided for herein. The Wildlife and Parks Commission must, on or before the first day of September of each year, post in conspicuous places within the reservation notices stating the limitations as to seasons, bag limits and any moratoriums. A copy of said notice shall be provided to every person upon the issuance of a Tribal license or permit. [TCR 87-77, 93-84]

**8-110 Powers.** Such regulations and statutory provisions shall, without limiting the general powers herein conferred, include the following:

1. To fix seasons, and shorten, extend or close seasons on any species of wildlife in any specific locality or localities on the entire reservation, when it shall be found, after investigation, that such action is necessary either to insure maintenance of an adequate supply thereof, to regulate taking, to effectuate proper game management and control, or otherwise to be in the public interest of the Winnebago Tribe.
2. To close or open lakes, streams, and refuges or parts thereof to angling, trapping, or hunting, and to regulate and prescribe the means by which wildlife may be taken as may be best to perpetuate, restore, increase or control any species of wildlife and assure an adequate supply thereof, and regulate the transportation and storage of all wildlife or parts thereof within the boundaries of the Winnebago Indian reservation and the development or transportation off the Winnebago Indian reservation.
3. To establish or change bag limits and possession limits.
4. To establish and change territorial limits for taking of all species of wildlife.
5. To prescribe the types of or kinds of bait, lures, tackle, equipment, traps, firearms and weapons, the tagging of game or fish or parts thereof or any other means or device for taking of such wildlife.
6. To designate the areas for hunting with bow and arrow and seasons thereof.
7. To establish big game, small game, fish, waterfowl and/or forbearing animal refuges, production areas, demonstration areas, and research areas. When private property is to be included in one of the above, consent of the owner must first be obtained. Boundary lines may be posted at the usual place of ingress with signs bearing instructions and title of the commission of the Winnebago Tribe, in such a way that a person entering by such ingress shall be placed on notice that he/she is within the jurisdiction of the Winnebago Tribe.
8. To establish methods for checking hunters, fishermen, or trappers onto and out of designated areas, to prescribe safety and fire control measures and other regulations as may be deemed necessary in the interest of range, forest, wildlife, fish or forbearing animal management, and for the safety and welfare of hunters, trappers, fishermen, landowners and the Winnebago Tribe.
9. To establish fees and license costs for hunting seasons, general, special or otherwise,

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10. To establish rules and regulations governing the operation of boats upon waters located within the exterior boundaries of the Winnebago Indian reservation.
11. To establish rules and regulations governing the operation of snowmobiles and other all-terrain recreational vehicles on the lands of the Winnebago Tribe, which shall also include aircraft.
12. To establish fees and license costs for issuing Commercial Fishing Licenses to Winnebago Tribal members. [TCR 87-77, 93-84, 10-17]

**8-111 Officers' duties.** It shall be the duty of the Tribal Conservation Officers to enforce the rules, regulations, and statutory provisions promulgated hereunder relating to hunting and fishing, trapping and all other regulations which may relate to all activities pursuant to the policy and intent of this Code and such officers may issue citations and bring before the proper Court any persons violating the provisions of this Code or any of the regulations, statutory provisions or rules adopted thereto pertaining to the policy, intent and purposes of this Code.

1. Upon the filing of a complaint, it shall be the duty of such officer to render assistance in the prosecution of the party complained against in the Winnebago Tribal Court.
2. All certified Conservation Officers and enforcement officers shall have the right to carry side arms upon their person; they shall be Courteous at all times; they shall not, at any time, partake of, or consume, illegal drugs or intoxicating liquor while on duty; they shall have the right to demand of all persons, hunting, fishing, or trapping on the reservation to display their Tribal license or permit for hunting, fishing, or trapping and sufficient personal identification for the purpose of enforcing the provisions of this Code.
3. Drinking of intoxicating beverages, or use of illegal drugs by the Tribal Conservation Officer or enforcement officer while on duty, shall be cause for immediate discharge from his/her position.
4. Each Tribal Conservation Officer shall act as an enforcement officer on the reservation, and may seek and request assistance from all federal and state officials, county sheriffs, and Bureau of Indian Affairs officers.
5. Each Tribal Conservation Officer shall keep an accurate daily log and record, setting out their activities as such Conservation Officers and enforcement officers for each day, and shall deliver the same to the Wildlife and Parks Commission or its designee prior to receiving their salary.
6. It shall be the duty of each Tribal Conservation Officer or enforcement officer on the reservation to issue a citation and summons to any person who he/she has probable cause to believe guilty of a violation of the provisions of this Code, and with or without a warrant, to open, enter, and examine all camps, wagons, cars, stables, barns, tents, and other places where he/she has reason to believe any fish or game taken in violation of this Code are to be found, and to confiscate the same; provided, a dwelling house on the reservation actually occupied, can be entered only upon authority of a search warrant. [TCR 87-77, 93- 84]

**8-112 Search.** A Tribal Conservation Officer may, without warrant but with probable cause, search any conveyance, vehicle, game bag, or any package, box, hunting camp or a similar place where he/she has reasonable belief that any animal has been killed or captured by the subject person within the reservation or any such animal has been brought onto the reservation, whether or not at the time the search was made he/she possesses actual knowledge or evidence that a violation of this Code, regulations, ordinances or rules adopted hereunder has occurred pertaining to hunting, fishing, or trapping. Any person who purchases a license from the Wildlife and Parks Commission who enters the reservation or who possesses any such dead or captured animal shall be deemed to have consented to such a search. [TCR 87-77, 10-17]

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**8-113 Authority to enter private land.** Any officer, in the course of his/her duty, may enter upon any land or waters of the Winnebago Indian reservation and remain thereon while performing such duties hereunder, and such actions by such officers shall not constitute trespass. For the purpose of this Article, probable cause for seizure, the Tribal officer must find that:

1. The seizure is directly necessary to secure an important Tribal interest in preserving reservation wildlife, property and public safety from injury; or
2. There is a special need for prompt action because it is likely that persons and objects used by him/her to violate these statutory provisions will leave the reservation and not return. [TCR 87-77, 93-84]

**8-114 Seizure without warrant.** Any officer may, upon probable cause, seize without warrant, all birds, animals, or parts thereof taken, killed, transported, or possessed, contrary to the provisions of this Code or any regulation, rule or ordinance pertaining to hunting, fishing or trapping, and may seize without warrant, bows, guns, traps, nets, seines, decoys, boats, lights, fishing tackle, cars, trucks, ATVs, or such other device unlawfully used for hunting, fishing or trapping. Such officer shall issue a receipt to the person in possession of the items seized stating time, place, date, items seized, where such items will be held, and the name of the officer seizing said items. [TCR 87-77, 10-17]

**8-115 Forfeiture.**

1. Any property seized shall be subject to forfeiture at the order of the Tribal Court of the Winnebago Tribe after no less than fifteen days' notice and opportunity for hearing or trial as herewith set forth. In case it appears upon the sworn complaint of the officer making the seizures that any articles seized were not in the possession of any person, and that the owner thereof is unknown, the Court shall have the power and jurisdiction to forfeit such articles unknown by publishing such summons in any newspaper of general circulation in Thurston county for a period of two successive issues. The summons shall describe the articles seized and shall give the owner fifteen days from the date of publication to appear before the Tribal Court and contest the forfeiture. Any perishables seized may, in the interest of the public health, be donated to a local non-profit organization.
2. If it is determined that a violation of these statutory provisions is by a non-Indian and/or non-member Indian, and if it is determined that such alleged act or omission violates 18 U.S.C. section 1135 or other relevant law, such person and the related evidence may be taken before the appropriate federal authorities at the earliest opportunity for prosecution under the relevant federal laws. Such action may be in addition to Tribal remedies and civil penalties available under Tribal law.
3. In the event that the Tribal Court orders forfeiture of any article seized, such article shall be sold at auction with proceeds going to the Wildlife and Parks Department. If any articles are not declared forfeited by the order of the Tribal Court, they shall be returned to the person from whom seized upon satisfaction of any and all civil penalties, liquidated damages and costs. After the completion of the case and, if civil penalties and liquidated damages that are assessed by the Court are not paid within a period of time to be established by the Court, the Court may dispose of said property as described above.
4. In the event that final judgment dismisses the allegations against the alleged offender, all items seized shall be returned to the owner or person from whom taken.
5. If the offender is unable to pay any judgment levied against him/her, then the Tribal Court may order the forfeiture of any article lawfully seized, and have the profits therefrom applied to the amount owed to the Court. Any surplus shall be paid to the offender and any deficiency shall be an enforceable judgment through attachment, garnishment or other remedy available to the Tribe.

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6. The Tribal Court shall be the recipient of all Court costs assessed and collected under this Code. The proceeds of any fines, judgments, or forfeitures assessed and collected by the Court in excess of such Court costs shall be paid by the Court to the Wildlife and Parks Commission to be used in carrying out its duties and obligations of the intents and purposes of this Code. [TCR 87-77, 88-91, 89-84, 93-84, 10-17]

**8-116 Civil liability.** Upon judgment entered in Tribal Court where the defendant has illegally taken, killed, or possessed any species of fish or wildlife, the defendant shall be liable for liquidated damages. In addition, the Tribal Court may impose the following additional remedies:

1. Forfeiture of weapons and gear used in violating these statutory provisions; and/or
2. Revocation of all Tribal hunting and fishing permits and licenses; and/or
3. Injunction against the issuance by the Tribe of any additional permits or licenses to the offender for up to five years; and/or
4. Payment of the costs for the Tribal Court proceeding. [TCR 87-77, 88-91, 93-84]

**8-117 Maximum penalties.** Any person who violates any provision of this Article not otherwise subject to a specific penalty provision shall be subject to a minimum penalty of \$100 and a maximum penalty of \$1,000.00 and/or loss of license. HUNTING, FISHING, TRAPPING without a proper and current Tribal license shall subject the defendant to, the following schedule of maximum penalties:

BIG GAME

Deer

130 Class and Below	\$1500.00
For above 130 Class	\$1500.00 plus \$10 per inch

[TCR 87-77, 88-91, 10-17]

**8-118 Non-game species.** All non-game species will have a minimum value of one hundred dollars (\$100.00) and a maximum value of five hundred dollars (\$500). Specific penalties for non-game species may be established by regulation of the Winnebago Tribal Wildlife and Parks Commission. [TCR 87-77, 88-91, 10-17]

**8-119 Waiver provision.** At any point prior to entry of judgment in any civil proceeding initiated under this Wildlife and Parks Code, a violator may pay to a Conservation Officer or the Tribal Court the civil fine established by the Code for the violation at issue, plus any Court costs which may have accrued. Said payment shall constitute an admission to the violation. Upon receipt of such payment, all confiscated property shall be returned to the individual. Thereupon, the Conservation Officer who participated in the initial action shall cause a notice of dismissal to be filed in the Tribal Court pursuant to the Winnebago Rules of Civil Procedure. [TCR 87-134, 88-91, 10-17]

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LICENSE INFORMATION

8-120	Residency.	8-126	Number of licenses issued.
8-121	Application for a license.	8-127	Season limitations.
8-122	Validating licenses.	8-128	Bag limits.
8-123	License classes and fees.	8-129	Lost licenses.
8-124	Special permits.	8-130	Revoked licenses.
8-125	Basic license requirements.		

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**8-120 Residency.** There is no residency requirement to purchase a license pursuant to this Code. [TCR 87-77]

**8-121 Application for a license.** Application for a license is made to the Winnebago Wildlife and Parks Commission. The licensee, as part of the application, must attest that he/she has read, understands and agrees to abide by all provisions of this Code. Only one license of any type may be purchased. [TCR 87-77]

**8-122 Validating licenses.** A licensee must sign his/her name in ink on each license to validate the license. Licenses are non-transferable and must be in the licensee's possession while hunting, fishing or trapping. A licensee must display his/her license upon demand of any Conservation Officer or other law enforcement officer. [TCR 87-77, 10-17]

**8-123 License classes and fees.**

1. Licenses: Licenses to HUNT, TRAP, and/or FISH, under this Code, are hereby classified as follows:
  - A. CLASS A-1 licenses to hunt, trap, or fish, shall be issued to Winnebago Tribal members (whether resident or non-resident).
  - B. CLASS A-2 licenses to Hunt, Trap, or Fish, shall be issued to non-Indians.
  - C. CLASS A-3 licenses to hunt, trap, or fish, shall be issued to non-member Indians.
2. License Fees: License fees shall be established annually by the Winnebago Wildlife and Parks Commission, and paid to said commission or its designee. Senior Citizens (age fifty five and older) who are members of the Winnebago Tribe shall be issued CLASS A-1 licenses free of charge.
3. Commercial Fishing Licenses: Commercial Fishing Licenses shall be available only to Winnebago Tribal members and shall only be granted upon a three (3) signature approval from the Commission. [TCR 87-77, 87-134, 88-91, 10-17]

**8-124 Special permits.** Special permits may be issued at the discretion of the Wildlife and Parks Commission for taking certain species for ceremonial or traditional purposes. Each special permit shall be limited to the taking of a single member of the species for which the permit was granted. Federal application forms for the acquisition of eagle parts from the federal government may be obtained from the Winnebago Wildlife and Parks Commission. [TCR 87-77, 87-134, 88-91]

**8-125 Basic license requirements.** The license to hunt is a prerequisite to all hunting, fishing, and trapping.

1. No license can be issued to any person under twelve years of age.



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2. A license to hunt may be issued to a person under the age of sixteen provided he/she is accompanied by a parent, guardian, or responsible adult when hunting or has successfully completed a firearms safety course when applying for a license.
3. Persons under the age of sixteen may fish without a license. [TCR 87-77, 88-91, 10-17]

**8-126 Number of licenses issued.** Limitations as to the number of licenses issued in each class of license shall be determined annually by the Wildlife and Parks Commission. [TCR 87-77, 88-91]

**8-127 Season limitations.** Limitations as to seasons shall be established annually by the Winnebago Wildlife and Parks Commission. All hunting, trapping, and fishing seasons shall be closed except as opened by the Wildlife and Parks Commission. Moratoriums on the taking of specific species may be established annually by the Wildlife and Parks Commission. [TCR 87-77, 88-91]

**8-128 Bag limits.** No person shall take more than one daily bag limit on any one day. Daily bag limits shall be determined annually by the Wildlife and Parks Commission. [TCR 87-77, 88-91]

**8-129 Lost licenses.** Lost licenses may be replaced by the Wildlife and Parks Commission. [TCR 87-77, 88-91]

**8-130 Revoked licenses.** In any case where a person is convicted of violating any provision of this Code punishable by a fine of more than one hundred dollars (\$100.00), or of violating any other rule or regulation promulgated pursuant to this Code, including but not limited to hunting, trapping, fishing or possessing wildlife without a license or during a closed season, the Court may revoke said person's hunting, trapping, or fishing privileges for up to five years following such conviction. [TCR 87-77, 88-91]

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WATERFOWL

8-131	Waterfowl regulations.	8-137	Tagging.
8-132	Restrictions.	8-138	Possession of live birds.
8-133	Closed season.	8-139	Dressing.
8-134	Shooting or hawking hours.	8-140	Shipment.
8-135	Field possession limit.	8-141	[Reserved.]
8-136	Wanton waste.		

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**8-131 Waterfowl regulations.** Migratory waterfowl seasons and regulations will be established by the Wildlife and Parks Commission. In addition to Tribal regulation, all federal rules apply to taking, possessing, transporting and storing of migratory game birds. [TCR 87-77]

**8-132 Restrictions.** No person shall take migratory game birds:

1. With a trap, snare, net, crossbow, rifle, pistol, swivel gun, shotgun larger than a ten gauge, punt gun, battery gun, machine gun, fish-hook, poison drug, explosive, or stupefying substance.
2. With a shotgun capable of holding more than three shells.
3. From a sink box, a low-floating device having a depression affording the hunter a means of concealment beneath the surface of the water.
4. From or with the aid or use of a car or other motor-driven land conveyance, or any aircraft.
5. From or by means of any motorboat or sailboat unless the motor has been stopped and/or the sail unfurled.
6. By use or aid of live decoys.
7. Using records or tapes of migratory bird calls, or sounds or electronically amplified imitations of bird calls.
8. By driving, rally, or chasing birds with any motorized conveyance or any sailboat to put them in the range of hunters.
9. By the aid of baiting (placing feed such as corn, wheat, salt, or other feed to constitute a lure or enticement). Hunters should be aware that a baited area is considered to be baited for ten days after the removal of the bait, and it is necessary for the hunter to know an area is baited to be in violation. [TCR 87-77]

**8-133 Closed season.** No person shall take migratory game birds during the closed season. [TCR 87-77]

**8-134 Shooting or hawking hours.** No person shall take migratory game birds except during the hours open to shooting and hawking (falconry as prescribed). [TCR 87-77]

**8-135 Field possession limit.** No person shall possess more than one daily bag limit while in the field, or while returning from the field to one's car, hunting camp, home, etc. [TCR 87-77]

**8-136 Wanton waste.** All migratory game birds shall be-retrieved, if possible, and retained in the custody of the hunter in the field. [TCR 87-77]

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**8-137 Tagging.** No person shall give, put or leave any migratory bird at any place or in the custody of another person unless the birds are tagged by the hunter with the following information:

1. The hunter's signature.
2. The hunter's address.
3. The total number of birds involved, by species.
4. The dates and locations such birds were killed.

Tagging is required if the birds are being transported by another person for the hunter, or if the birds have been left for cleaning, storage (including temporary storage), shipment, or taxidermy services. [TCR 87-77]

**8-138 Possession of live birds.** Crippled birds must be immediately killed. [TCR 87-77]

**8-139 Dressing.** No person shall completely dress any game bird (except doves) and then transport the birds from the field to one's home or to a commercial preservation facility. [TCR 87-77]

**8-140 Shipment.** No person shall ship migratory game birds unless the package is marked on the outside with:

1. The name and address of the person sending the birds;
2. The name and address of the person to whom the birds are being sent;
3. The number of birds, by species, contained in the package;
4. The dates and locations such birds were killed. [TCR 87-77]

**8-141 [Reserved.]** [TCR 10-17]

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BIG GAME REGULATIONS

8-142	Shooting hours.	8-146	Non-licensees.
8-143	Firearms.	8-147	Tagging and transportation.
8-144	Bow and arrow.	8-148	Hunter orange.
8-145	Legal animals.	8-149	Big game hunting.

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**8-142 Shooting hours.** One-half hour before sunrise to one-half hour after sunset. [TCR 87-77]

**8-143 Firearms.** No auto-loading firearm that is capable of holding more than six cartridges nor any firearm that is capable of being operated as a fully automatic may be used.

1. It is prohibited to use any firearm of .22 caliber or less in the hunting of big game or waterfowl.
2. Muzzle-loading rifles must be .44 caliber or larger. Shotguns must discharge a single ball or rifled slug weighing at least one-half ounce. Buckshot may not be used. [TCR 87-77]

**8-144 Bow and arrow.** Minimum bow pull is forty pounds, and bow must be able to shoot an arrow one hundred twenty five yards. Cutting edge of the arrowhead must be of steel and not less than seven eighths of an inch long. The shaft of the arrow must be at least twenty four inches long. Explosives, poisonous and barbed points, and crossbows are illegal. [TCR 87-77]

**8-145 Legal animals.** The following definitions apply to big game:

1. Big game includes wild turkeys, white-tailed deer, mule deer, antelope, elk, buffalo and moose.
2. Buck or bull means a male animal with a visible antler.
3. Antlerless means an animal of either sex without a visible antler. [TCR 87-77]

**8-146 Non-licensees.** No big game licensee hunting in the field during any big game season shall be accompanied by a non-licensee carrying any firearm or bow and arrow. A non-licensee is a person not having a big game license for the same season and unit as the licensee. [TCR 87-77]

**8-147 Tagging and transportation.** The seal issued with each license must be signed, dated and securely attached to the animal as provided in the instructions on the seal at the time the game is brought to a road or into any hunting camp, farmyard, dwelling, or place of abode, or before the game is placed in or on a vehicle.

1. Tagging allows a big game animal to be transported or stored by the hunter or by another person for the hunter.
2. To transport parts of a big game animal, a free transportation and shipping permit must be obtained from the Wildlife and Parks Commission or Conservation Officer for those parts not accompanied by the tag.
3. No person shall transport or possess any big game animal without the accompaniment of the animal's head and hide (to promptly identify species and sex) unless he/she has a receipt from a licensed taxidermist or a free transportation and shipping permit obtained from the Wildlife and Parks Commission or Conservation Officer. [TCR 87-77]

**8-148 Hunter orange.** Any person hunting big game, other than wild turkeys, with a firearm or bow and arrow, shall display on his/her chest and back a garment of bright orange or red material covering at least two thirds of his/her torso. [TCR 87-77, 88-91]

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**8-149 Big game hunting.** The Wildlife and Parks Commission shall set the big game hunting regulations and seasons.

1. The Wildlife and Parks Commission shall, at its discretion, and upon application of any member or members of the Tribe of Winnebago Indians, have the right to grant a special permit to take or kill a big game in the off-season.
2. It shall be unlawful to chase, run, or harass any big game with a motor vehicle of any kind, or to shoot, shoot at, take or attempt to take any big game from a motor vehicle while it is under way or moving, or to use a spotlight or other artificial lighting device.
3. All big game hunters, other than those licensed for and hunting wild turkeys, shall wear a bright orange or red outer garment and failure to comply with this regulation, shall constitute a violation under this Code.
4. Hunters shall observe the hours set forth by the Wildlife and Parks Commission which are set as follows: hunting permitted only from one-half hour prior to sunrise to one-half hour after sunset.
5. Any big game accidentally hit and killed by a motorized vehicle must be reported to the Wildlife and Parks Commission, Conservation Officer, or other enforcement officers within twenty four hours. [TCR 87-77, 87-134, 88-91, 10-17]

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RESTRICTIONS

8-150	Restrictions.	8-159	Harassment.
8-151	Flagging.	8-160	Livestock and fences.
8-152	Visible bait.	8-161	Closed areas.
8-153	Raw furs.	8-162	Motor vehicles.
8-154	Trap checking.	8-163	Artificial light.
8-155	Live furbearers.	8-164	Inspection.
8-156	Fishing regulations.	8-165	Threatened and endangered species.
8-157	Trespass.	8-166	Bobcats.
8-158	Retrieval.		

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**8-150 Restrictions.** No person shall:

1. Possess a firearm in the field while hunting with a bow and arrow during the season restricted to archery.
2. Use dogs to hunt big game.
3. Use salt blocks or licks to lure or attract big game.
4. Use any artificial light to take big game or use artificial light in big game areas while in possession of a firearm or bow and arrow.
5. Hunt big game by methods other than with a firearm or bow and arrow.
6. Hunt in groups numbering more than ten persons.
7. Sell or barter big game except for head, hide or horns.
8. Discharge a firearm or other implement with which a big game animal could be killed from a motor vehicle or any other means of transportation during a time and in a place that big game hunting is being permitted.
9. Set or operate more than seventy five traps at any one time.
10. Dig, disturb, or molest any mink den or beaver house for the purpose of capturing any of these animals, or use poisonous, gas or smoke to kill or capture any of these animals.
11. Destroy any muskrat house, except that in open season such house may be opened in a manner that will not destroy, damage, or injure it as a place of habitation.
12. Take game in any manner other than by shooting them with a firearm, by handgun, by bow and arrow or by birds trained in falconry.
13. Sell or barter game birds and animals except for skin, head or horns on big game, skin or plumage of pheasants and furbearers.
14. Wantonly waste or destroy any game bird or animal.
15. Kill non-game birds, except the English sparrow and European starling.
16. Kill, or take fish or wildlife at any time except during open seasons established by the Wildlife and Parks Commission or by special permit from the Wildlife and Parks Commission.
17. If under the age of sixteen, carry a gun and hunt unless having successfully completed a firearm safety course or being accompanied by one adult for each child carrying a gun.
18. Take game fish by the use of net or seine.
19. Hunt, trap or fish on any part of the Winnebago Tribal reservation without first obtaining a Winnebago Tribal permit or license.
20. Be intoxicated while hunting or fishing on the reservation; and any person found intoxicated on the reservation while hunting or fishing shall be charged and prosecuted for such violation.
21. Take or attempt to take any wildlife by means of using a snare. [TCR 87-77, 88-91, 10-17]

**8-151 Flagging.** No person shall flag, mark or otherwise attempt to claim any specific place or area for hunting, trapping or fishing purposes. [TCR 87-77, 88-91]

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**8-152 Visible bait.** No person shall set any trap within thirty feet of any exposed bait visible to airborne raptors. Exposed bait means bodies, meat or viscera of any animal bird or fish with or without skin, hide or feathers. [TCR 87-77]

**8-153 Raw furs.** The raw furs of animals legally trapped may be possessed after the close of the season, provided all furs are checked with a Conservation Officer within ten days after the close of the season. [TCR 87-77, 10-17]

**8-154 Trap checking.** Trappers must check all traps at least every twenty four hours. [TCR 87-77]

**8-155 Live furbearers.** Live furbearers may not be altered physically, bartered or possessed except one family of live furbearers per household may be kept as pets. [TCR 87-77]

**8-156 Fishing regulations.** Limits on the taking of game fish shall be established by the Wildlife and Parks Commission annually. There are no limits on the number of rough fish that may be taken. The limit for paddlefish is one per day. Any paddlefish snagged must be counted as the daily limit. Fish may not be sold or caught with any type of net without a commercial fishing license issued by the Wildlife and Parks Commission. It is unlawful to use any explosives in the taking of fish. [TCR 87-77, 88-91]

**8-157 Trespass.** Except as otherwise provided in Section 8-158, no person shall trespass on any private or allotted lands within the exterior boundaries of the Winnebago reservation without permission from the owner. [TCR 87-77, 88-91]

**8-158 Retrieval.** Any person may retrieve lawfully taken small and big game from private, deeded or allotted land if you do not use a vehicle to make your retrieval. Remember, to be lawfully taken, game must have been shot within open areas or areas where permission has been granted. [TCR 87-77, 88-91]

**8-159 Harassment.** No person may intentionally interfere with persons lawfully engaged in taking or attempting to take game or fish. No person may scare or disturb game with specific intent to prevent lawful taking. [TCR 87-77, 88-91]

**8-160 Livestock and fences.** No livestock, fences, or other property belonging to the Tribe, landowner, or lessee may be damaged or disturbed in any manner. [TCR 87-77, 88-91]

**8-161 Closed areas.** No person shall hunt or trap on roads or road right-of-ways or other areas designated as closed by the Wildlife and Parks Commission. [TCR 87-77, 88-91]

**8-162 Motor vehicles.** No person shall:

1. Operate motor propelled vehicles on the Winnebago reservation except on designated wheeled motor vehicle roads and trails. An additional penalty of up to \$500 for such operation shall be assessed.
2. Discharge any firearm at any wild animal while in or on a motor vehicle or any conveyance attached to it when the vehicle is on a public highway. Paraplegics who are licensed hunters and have a special permit from the Wildlife and Parks Commission may shoot from a standing vehicle.
3. Use a motor vehicle to chase, harass, intercept, pursue or otherwise disturb any big game, small game or migratory waterfowl.
4. Use an aircraft to hunt, take, concentrate, drive, stir up, locate or spot any game.

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5. Allow any firearm to protrude from any motor vehicle or any conveyance attached to it on any public highway during any hunting season.
6. Have any firearm in possession while riding in or on or while operating a motor vehicle unless the firearm is completely unloaded. This provision shall not apply to authorized law enforcement or Conservation Officers.
7. Send or receive any message by radio to make it easier to take big game, small game or migratory waterfowl. [TCR 87-77, 88- 91, 89-84, 10-17]

**8-163 Artificial light.** No person shall hunt any game or wild animal with the aid or use of artificial light except raccoons, which may be hunted with artificial light only when the hunter is not in or on a motorized vehicle. [TCR 87-77, 88-91]

**8-164 Inspection.** No person shall refuse to permit inspection and count of game. Any motor vehicle, camper, or trailer may be stopped for such inspection and count. [TCR 87-77, 88-91]

**8-165 Threatened and endangered species.** No person shall take, possess, transport, export, process, sell or offer for sale, buy or offer to buy, nor shall a common or contract carrier transport or receive for shipment any species of threatened or endangered wildlife or plants indigenous to the Winnebago reservation or determined to be endangered or threatened within the Winnebago reservation. For complete listing, write to: Winnebago Tribal Wildlife and Parks Commission, Winnebago, Nebraska, 68071. [TCR 87-77, 87-134, 88-91, 10-17]

**8-166 Bobcats.** Bobcats will be managed separately from all other species by the Winnebago Wildlife and Parks Commission. A bobcat management plan will set season dates if any, limits, and possession numbers. Special restrictions may apply to bobcats. [TCR 87-77, 88-91]



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FIREARMS POLICY

8-167	Definitions.	8-174	Responsibility of the Department of Wildlife and Parks Supervisor.
8-168	Firearms policy.	8-175	Responsibility of the Chief Administrative Officer.
8-169	Administration of firearms.	8-176	Medical standards.
8-170	Firearms; record.	8-177	Misconduct.
8-171	Initial qualification requirements.	8-178	Special permits.
8-172	Procedures when a firearm is used.		
8-173	Responsibility of the Senior Conservation Officer.		

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**8-167 Definitions.**

1. “Certified instructor” shall mean an individual trained and certified by the Bureau of Indian Affairs as qualified to train and test in the standards required by the agency.
2. “Physical Efficiency Battery” (PEB) is defined as a series of tests approved by the Bureau of Indian Affairs Law Enforcement designed to measure physical proficiency. [TCR 96-74]

**8-168 Firearms policy.** It is the policy of the Winnebago Tribe of Nebraska, Department of Wildlife and Parks that all Tribal Conservation Officers may be authorized to carry sidearms for their safety and protection. Tribal Conservation Officers may be authorized to carry firearms during official duty hours or marksmanship training. All Tribal Conservation Officers will utilize department issued firearms. Any firearm that is capable of being operated as a fully automatic weapon is prohibited. Authorized firearms for Tribal Conservation Officers are:

1. Handgun. Winnebago Tribal Conservation Officers shall be issued handguns and ammunition approved by the Supervisor, Department of Wildlife and Parks and the Bureau of Indian Affairs Law Enforcement supervising officer. The use of any other types of handguns other than that authorized is prohibited. The barrel length may not be more than four inches or less than four inches.
2. Rifle. Winnebago Tribal Conservation Officers shall use the Department of Wildlife and Parks’ .22 magnum rifle, for the purpose of harvesting small game species for special permits or to destroy a seriously injured or dangerous animal.
3. 12 gauge shotgun. Winnebago Tribal Conservation Officers shall use the Department of Wildlife and Parks’ 12 gauge shotgun capable of holding no more than six (6) cartridges. The 12 gauge shotgun will be authorized only for harvesting upland bird, turkey and waterfowl species for special permits. [TCR 96-74, 10-17]

**8-169 Administration of firearms.** The firearms policy shall be administered by the Supervisor of the Wildlife and Parks Department. The firearms policy may be amended at any time by Resolution of the Winnebago Tribal Council. [TCR 96-74]

**8-170 Firearms; record.** Receipts for issued firearms shall be maintained in a file established under the control of the Supervisor, Department of Wildlife and Parks, who is responsible for assuring such records are current and accurate. [TCR 96-74]

**8-171 Initial qualification requirements.** Winnebago Tribal Conservation Officers are required to attend and successfully complete the Bureau of Indian Affairs Basic Police Training course as a requisite for position qualification and employment.

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1. Conservation Officers are required to receive four (4) hours of training in the use of weapons, policy and safety and be certified by the Bureau of Indian Affairs law enforcement firearms instructor by achieving a score of 70% or better. Conservation Officers must re-certify with a score of 70% or better every six (6) months to be qualified to carry a sidearm.
2. An Officer who fails to qualify with a score of 70% or better may be re-tested one week later. Any Officer who fails to qualify shall be reassigned to duties that do not require the use of firearms. Any Tribal Conservation Officer who fails to qualify after three attempts within a 30 day period shall be terminated.
3. Tribal Conservation Officers must qualify with a score of 70% accuracy marksmanship for use of a shotgun and rifle as established by the certified firearms instructor. A Conservation Officer who fails to qualify as a marksman may be re-tested one week later. Any Officer who fails to qualify after three attempts within a 30 day period shall be terminated.
4. Lapse of firearms qualification. Whenever a Tribal Conservation Officer's firearms qualification lapses, the Supervisor of the Department of Wildlife and Parks shall request the return of the issued firearm until the Officer re-qualifies as specified.
5. Firearms cleaning. Each Officer shall clean the issued firearms at least once every two weeks or after each use.
6. Wearing of a firearm. Tribal Conservation Officers shall carry sidearms in full view at all times when on duty. Tribal Conservation Officers are strictly prohibited to carry department issued firearms while off duty and are prohibited to carry firearms outside the exterior boundaries of the Winnebago reservation unless en route to other Tribally-owned wildlife areas. Failure to comply will result in disciplinary action.
7. Any part time or temporary Tribal Conservation Officers shall be prohibited to carry or use a firearm unless they have achieved proper training and certification.
8. Firearms inspections. The Senior Conservation Officer shall conduct monthly firearms inspections or as necessary and record the results of the inspection on the Officer's monthly report. Weapons inspection deficiencies require the Senior Conservation Officer to take immediate corrective action to correct the deficiency. Failure to correct the deficiency shall result in the surrender of the firearm.
9. Firearms storage. All department issued firearms and ammunition shall be stored at the Winnebago Police Department. The proper storage of firearms shall include rendering firearms inoperable by installing a safety lock on the firearm and placing the firearm in a gun safe. [TCR 96-74, 05-02, 10-17]

**8-172 Procedures when a firearm is used.**

1. Conservation Officers shall prepare a written report within 6 hours stating all facts in the drawing or firing of a weapon, except while in marksmanship training or while harvesting an animal species for a special permit. The Conservation Officer shall report the incident of firing his/her weapons to the designated supervisor immediately.
2. While on duty, if a Tribal Conservation Officer has injured or caused death to a human being, the Officer shall immediately notify his/her supervisor. [TCR 96-74]

**8-173 Responsibility of the Senior Conservation Officer.**

1. Upon receipt of a verbal or written report that a firearm has been discharged without injury to any person or damaging, defacing or destroying private or Tribal properties, the Senior Conservation Officer shall investigate the incident with the proper law enforcement agency and shall submit a verbal and written report of the findings to his/her supervisor.
2. Immediately upon receipt of a verbal or written report that a Conservation Officer has injured or caused death with a firearm, it shall be the responsibility of the Senior Conservation Officer to

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immediately notify his/her supervisor and the proper law enforcement agency for investigation. The Senior Conservation Officer shall investigate the incident with the lead law enforcement agency. When the investigation is complete, the Senior Conservation Officer shall submit a verbal and written report of the findings to his/her supervisor.

3. If the Senior Conservation Officer caused the injury or death, the supervisor of the Wildlife and Parks Department shall contact the proper law enforcement agency to conduct a thorough investigation. [TCR 96-74]

**8-175 Responsibility of the Chief Administrative Officer.** Upon notification that any Tribal Conservation Officer has injured, caused death or has shown inappropriate behavior with a firearm, it shall be the responsibility of the Chief Administrative Officer to provide a copy of the Wildlife and Parks Supervisor's report and recommendations to the Winnebago Tribal Council. Upon receipt of the report, the Winnebago Tribal Council may request a meeting with the parties involved. [TCR 96-74]

**8-176 Medical standards.**

1. The health of the Conservation Officers and applicants must be such that the individuals have the capacity to meet the demands for performance in the position and for human reliability. Conservation Officers and applicants must undergo a physical examination and be physically and medically capable of performing the essential duties of the position efficiently and without hazard to themselves or others. Failure to meet any of the required physical qualifications shall disqualify the applicant or employee except when medical evidence is presented that the individual can perform the functions of the job efficiently with reasonable accommodation.
2. Each Conservation Officer shall be required to take an annual physical examination performed by a physician designated by the Winnebago Tribe. If a Conservation Officer, after a physician's examination, is not found to be medically fit for duty, the Officer will be placed on medical light duty which will not require the use of a firearm and have three months to receive medical treatment for the condition. If the Officer shows improvement within the three months, he/she may remain on medical light duty for an additional three months if the physician deems necessary. If after the initial three month medical light duty the physician finds the employee is not medically fit for duty nor can reasonably be treated to become medically fit within an additional three months, the employee will be medically discharged.
3. PEB testing shall be given to Conservation Officers every six months. The Department of Wildlife and Parks Supervisor and the Bureau of Indian Affairs Law Enforcement certified PEB Instructor shall both insure that each Tribal Conservation Officer has successfully completed the PEB test. The established PEB procedures outlined in the PEB Manual will be used on a pass/fail system. The testing shall be conducted by a certified PEB Instructor. The Conservation Officers are required to achieve a score of 70% or better. Any Officer who fails to qualify as being physically fit shall re-test no more than three times in a six week period. Failure to achieve the 70% score after three re-tests will result in termination.
4. Applicants and Conservation Officers must be free from any acute or chronic psychiatric, mental or neurological condition which would be a hindrance in the full performance of the scope of work and essential duties of the position. A psychological evaluation shall be performed on all current Conservation Officers and all applicants with satisfactory results prior to weapons certification and on an annual basis thereafter for the term of employment. [TCR 96-74, 10-17]

**8-177 Misconduct.**

1. The use of firearms for the purpose of intimidation, recreational use or for criminal purposes is prohibited.

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2. Winnebago Tribal Conservation Officers shall not be given any special deputy status to enforce laws outside the Wildlife and Parks Code of the Winnebago Tribe of Nebraska unless officially deputized with a specific law enforcement agency.
3. Tribal Conservation Officers shall not impersonate a police officer, impersonate a public servant, use improper influence in official matters, oppress under the color of office and engage in official misconduct as described by Tribal law.
4. Any proven misconduct as defined above will result in termination. [TCR 96-74]

**8-178 Special permits.** Special permits may be issued at the discretion of the Wildlife and Parks Commission for taking certain species of game for ceremonial or traditional purposes. [TCR 96-74]

**8-190 Special permits.** Special permits may be issued at the discretion of the Wildlife and Parks Commission for taking certain species of game for ceremonial or traditional purposes. [TCR 96-74]

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TITLE 8  
ARTICLE 2  
WATER MANAGEMENT  
(Revised November 6, 2009)

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**8-201 Purposes.** The purposes of this Article shall be:

1. To promote the protection and use of the waters of the reservation in a manner consistent with Tribal goals and policies;
2. To protect the health, welfare, economic strength, and cultural heritage of the Tribe and its members;
3. To maintain water quality, free-flowing streams, and a healthy environment associated with waters of the reservation;
4. To assert the inherent powers of self-government and sovereign authority of the Winnebago Tribe of Nebraska over all actions taken within the reservation that may affect the use or quality of reservation waters;
5. To provide for effective and coordinated management of regional water supplies with Tribal, state, federal and local governments; and
6. To initiate an integrated approach by the Tribe to managing the waters, forests, wildlife, land, and other natural resources of the reservation. [TCR 87-82]

**8-202 Major actions.** In order to effectuate the policies in section 8-201, this Article shall:

1. Establish a water resource committee;
2. Initiate a water use inventory;
3. Require that all future water uses be registered with the Tribe; and
4. Lay the groundwork for developing water quality control programs, water regulatory Codes, and integrated resource management strategies. [TCR 87-82]

**8-203 Definitions.** The following words and terms shall be defined as follows when used in this Article:

1. “Administrator” means the water administrator of the Tribe appointed and supervised by the water resource committee.
2. “Committee” means the water resource committee established under Sections 8-205, 8-206 and 8-207 of this Article.
3. “Person” includes any individual corporation, association, unit of government, organization, or other legal entity.

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4. "Reservation" means all territory within the boundaries of the Winnebago reservation regardless of ownership.
5. "Tribe" means the Winnebago Tribe of Nebraska.
6. "Waters of the reservation" and "reservation waters" means all water that lies, flows, arises, or otherwise occurs on or under the reservation.
7. "Water use" means any withdrawal diversion, pumping, or impoundment of water for any purpose by means of well, ditch, hose, pipe, dam, or other structural device. [TCR 87-82]

**8-204 Severability.** If any provision of this Article is held to be legally invalid, the remainder of this Article shall retain full force and effect under law. [TCR 87-82]

**8-205 Composition of the committee.** The committee, as appointed by the Tribal Council, shall consist of three members normally serving terms of three years. The initial members of the committee, however, will serve the following terms: one member shall serve one year; one member shall serve two years; and one member shall serve three years. [TCR 87-82]

**8-206 Committee chairperson.** The member designated as initially serving three years on the committee shall be the first committee chairperson. Thereafter, the member having served the longest period of consecutive time on the committee shall be chairperson. Such chairperson shall be in charge of running the meetings of the committee and reporting to the Tribal Council regarding committee actions. [TCR 87-82]

**8-207 Committee meetings.** The committee shall meet once every two months, or with such greater frequency as determined by the committee members. Decisions of the committee must be made by a minimum two-thirds vote of the members. A written summary of each meeting shall be compiled by the chairperson, reviewed by the other committee members, and submitted to the Tribal Council. At least two members, including the chairperson, must be in attendance at all times for the conduct of business at committee meetings. [TCR 87-82, 10-17]

**8-208 Duties.** The committee shall:

1. Implement the provisions and policies of this Article;
2. Appoint and supervise the water administrator;
3. Make recommendations to the Tribal Council regarding future water policies and regulations; and
4. Submit a budget request in November 1987 if funds are needed for implementing future water programs. [TCR 87-82]

**8-209 Committee member provisions.**

1. Removal of member: Committee members shall serve their full term unless they submit a written resignation to the Tribal Council or are removed by the affirmative vote of two-thirds of the Tribal Council membership because of incompetency, neglect of duty, or misconduct.
2. Vacancies: Vacancies on the committee shall be filled for the remainder of the unexpired term through interim appointment of a new member the Tribal Council.
3. Compensation: Compensation of committee members, if any, shall be fixed by the Tribal Council.
4. Qualifications: Members of the committee must be over twenty years of age and enrolled in the Tribe. The committee shall recommend to the Tribal Council persons to fill committee vacancies. [TCR 87-82]

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**8-210 Listing of current uses.** The administrator shall by December 31, 1987 compile a comprehensive listing of all current uses of reservation waters. [TCR 87-82]

**8-211 Water resource information.** The administrator shall by December 31, 1987 compile all available information, reports, data, and other documentation regarding the amount, quality, and use of reservation waters. [TCR 87-82, 10-17]

**8-212 Public cooperation.** All persons who use reservation waters shall cooperate with and respond to reasonable requests by the administrator in the compilation of the water use inventory and documentation described in Sections 8-201 and 8-202. [TCR 87-82]

**8-213 Declarations of new water use.** Prior to initiating new water uses, persons shall report their proposed use of reservation water by filing a “Declaration of New Water Use” with the administrator on a form provided by the administrator. The Administrator shall undertake timely measures to ensure that adequate notice of this requirement is provided to persons who use waters of the reservation. [TCR 87-82]

**8-214 Inventory update.** The administrator shall utilize the “Declaration of New Water Use” to prioritize future water uses on the reservation and to maintain a current listing of the water use inventory. [TCR 87-82]

**8-215 Committee and administrator responsibilities.** The committee and administrator shall:

1. Coordinate with other governmental entities to protect regional water quality;
2. Assess and recommend to the Tribal Council the extent to which the Tribe should participate in programs under the federal Safe Drinking Water Act; and
3. Assess and recommend to the Tribal Council the extent to which the Tribe should participate in programs under the federal Clean Water Act; and
4. Implement the provisions of Resolution 87-79 to oppose any dump sites on or near the reservation based on potential contamination of Indian Tribal drinking water sources and all reservation waters. [TCR 87-82]

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NATURAL RESOURCES

ARTICLE 3  
HEMP

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**8-301 Authority.** The Preamble and Article IV of the Constitution and Bylaws of the Winnebago Tribe of Nebraska authorizes the governing body of the Tribe, among other powers, to conserve and develop natural resources. Under the Agriculture Improvement Act of 2018, Public Law No. 115-334, Title X, §10114, an Indian Tribe requesting primary regulatory authority over the production of hemp in its territory shall submit a plan to the U.S. Department of Agriculture (USDA). Upon approval of such plan by the USDA, the Tribe will monitor and regulate the production, testing, disposal, inspection, as well as enforce compliance with the Tribe’s law and federal law regarding hemp production and hemp products.

**8-302 Policy and purpose.** It is the declared policy of the Winnebago Tribe of Nebraska that hemp is a valuable agricultural crop and commodity that can be cultivated within the exterior boundaries of the Winnebago Indian Reservation. The purpose of this Article is to:

1. promote the cultivation of hemp and the development of new and/or expansive commercial markets for the Tribe and Licensees through the sale of hemp products to the maximum extent permitted by law; and
2. enable the Tribe, its Licensees, and affiliated postsecondary institutions to conduct research regarding the cultivation of hemp and the creation of hemp products within the exterior boundaries of the Winnebago Indian Reservation; and
3. regulate hemp as an agricultural commodity in compliance with tribal and federal law.

**8-303 Definitions.** The following words have the meanings given below when used in this Article, unless a different meaning is obvious from the context:

1. “Applicant” means the Winnebago Tribe of Nebraska or an individual, which includes a business entity, who applies for a License or Permit under the Winnebago Hemp Program.



2. "Certified seed" means seed acquired from a certified seed dealer, that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.
3. "Commercial sale" means the sale of a product in the stream of commerce at retail or at wholesale, including sales online.
4. "Commission" means the Winnebago Tribe of Nebraska's Hemp Oversight and Licensing Commission (HOLC).
5. "Conviction" means any plea of guilty or nolo contendere, or any find of guilt, except when the finding of guilt is subsequently overturned on appeal.
6. "Corrective Action Plan" or "CAP" means a plan established by the Commission to correct a negligent violation, including: (1) a date for correcting the negligent violation; (2) a requirement to periodically report to the Commission regarding compliance with the Winnebago Tribe of Nebraska's Plan for at least the next two calendar years.
7. "Criminal History Report" means the Federal Bureau of Investigation's Identity History Summary.
8. "Cultivate" or "cultivating" means planting, watering, growing, and harvesting a hemp plant or crop.
9. "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, or recklessly.
10. "Decarboxylation" means the removal or elimination of carboxyl group from a molecule or organic compound.
11. "Delta-9 tetrahydrocannabinol" or "THC" is the primary psychoactive component of cannabis.
12. "Dry weight basis" is the ratio of the amount of moisture in a sample to the amount of dry solid in a sample. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extracts, or other derivative), after excluding moisture from the item.
13. "Farm Service Agency" or "FSA" is an agency within USDA.
14. "Federally-defined THC level for hemp" means the application of the measurement of uncertainty to the reported delta-9 tetrahydrocannabinol (THC) content concentration level on a dry weight basis that produces a distribution or range that includes 0.3% or less.
15. "Geospatial location" or "GPS" means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.
16. "Handle" or "Handling" means to harvest or store hemp plants or hemp plant parts for further processing. "Handle/Handling" also includes the disposal of cannabis plants that are not hemp for the purposes of chemical analysis and disposal of such plants.
17. "Hemp" means the plant species *Cannabis sativa* L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis, or as otherwise defined in federal law.
18. "Hemp product" means a finished product with the Federally defined THC level for hemp, that is derived from, or made by, processing a hemp crop, and that is prepared in a form available for commercial sale.
19. "Key participant" means a person or persons who have a direct or indirect financial interest in the entity producing hemp which may include a sole proprietor, a partner in a partnership, or a person with executive managerial control in a corporation. A key participant also

- includes persons in a corporate entity at executive levels including chief executive officer, chief operating officer and chief financial officer.
20. “Law enforcement agency” means the Winnebago Tribe of Nebraska Police Department, United States Drug Enforcement Agency, or other federal law enforcement agency or drug suppression unit but does not include any state law enforcement agency except in those cases where the Tribe and State have entered into a cross-deputization agreement.
  21. “License” means a valid certificate, in a specified format prescribed by the USDA, issued by the Winnebago Tribe of Nebraska to grow, handle, store, process, transport, or market hemp.
  22. “Licensed hemp producer” or “Licensee” means the Winnebago Tribe of Nebraska or entity licensed by the Tribe to cultivate hemp within the exterior boundaries of the Winnebago Indian Reservation. If the Tribe passes a resolution to expand Licensees to include individual persons, then this definition is amended to include such person or persons.
  23. “Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of cannabis throughout the area.
  24. “Lot identification” means the unique identifier established by the Applicant for each unique GPS coordinates where hemp will be grown, handled, stored, or processed, which can include a field name or building name.
  25. “Measurement of Uncertainty (MU)” is the parameter, associated with the result of a measurement, that characterizes the dispersion of values that could reasonably be attributed to the quantity subject to measurement.
  26. “Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with this Tribal Code.
  27. “Permit” means a tribally issued certificate/license that authorizes a Licensee to plant, grow, or store hemp, any part of hemp, or hemp-related products in a specifically described Lot.
  28. “Person” means a partnership, corporation, limited liability company, association, postsecondary institution, or other legal entity;
  29. “Plan” is the set of criteria under which the Tribe monitors and regulates hemp production.
  30. “Postsecondary institution” means a postsecondary institution that meets the requirements of 20 U.S.C. §1001.
  31. “Process” or “processing” means to convert any portion of a hemp crop into a hemp ingredient, hemp product, or other marketable form.
  32. “Produce” is to grow hemp plants for the market, or for cultivation for market, in the United States.
  33. “Reservation” means the reservation of the Winnebago Tribe of Nebraska.
  34. “Testing facility” means a Drug Enforcement Administration (DEA) registered laboratory that must include a validated testing methodology that uses postdecarboxylation or other similarly reliable methods, including, but are not limited to, gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported on a dry weight basis. The registered laboratory may also be an accredited ISO/IEC 17025 facility, the standard published by the International Organization for Standardization (the “ISO”) titled “General requirements for the competence of testing and calibration laboratories”, or an accreditation standard approved by the Winnebago Tribe of Nebraska.
  35. “THC” means delta-9 tetrahydrocannabinol concentration.
  36. “Tribal Court” means the courts of the Winnebago Tribe of Nebraska as established pursuant to the Tribe’s Constitution and Bylaws and Tribal Code.
  37. “Tribe” means the Winnebago Tribe of Nebraska, which is recognized as eligible by the United States Secretary of the Interior for the special programs and services provided by the

United States to Indians because of their status as a federally-recognized tribe and are recognized as possessing powers of self-governance.

38. “Tribal police” or “Tribal law enforcement” shall mean the Winnebago Tribe of Nebraska Tribal Police.

**8-304 Hemp program.** The Tribe hereby establishes the Winnebago Hemp Program (“Hemp Program”) as an instrumentality of the Winnebago Tribe of Nebraska. The Hemp Program is under the directive of the Hemp Oversight and Licensing Commission (“Commission”) and may fulfill any and all obligations of the Tribe. In carrying out its purposes, the Hemp Program shall function as an arm of the Tribe.

**8-305 Hemp Oversight and Licensing Commission.** There is hereby established a Hemp and Licensing Commission of the Winnebago Tribe of Nebraska. The Commission shall be an agency of the Tribe, subordinate to the Tribal Council, possessing all powers set forth in this Title Eight, Article Three, and such other powers as are now or hereafter determined by law:

1. The Commission shall consist of five members, the Tribal Council shall appoint a chairman and a vice-chairman. A minimum of three members of this Commission shall be members of the Tribe. All Commission members shall be over twenty-one years of age.
2. The initial members of the Commission, the chairman shall serve for two years and the vice-chairman shall serve for one year. Each of the three remaining members shall be appointed to serve, respectively, one, two, and three-year terms. All subsequent terms shall be three years.
3. If any member of the Commission is removed by the Tribal Council, resigns, dies, or for any other reason becomes unable to continue serving, the Tribal Council shall appoint a person to fill such vacancy. This appointment shall be for the balance of the unexpired term of the member being replaced.
4. The Commission chairman shall have supervisory authority over any Commission personnel hired to assist the Commission with the requirements of the Hemp Program. This authority shall include the authority to discipline any Commission personnel but the decision whether to retain or terminate a member of the Commission shall rest solely with the Tribal Council.
5. No individual appointed to serve on the Commission who:
  - a. has been convicted of a felony in any tribal, state or federal jurisdiction; or
  - b. has any financial interest in, or management responsibility for, any hemp industry activity on or off the Reservation;
6. Powers and duties of the Commission. The Tribal Council delegates to the Commission the following powers:
  - a. issue Licenses and Permits, consistent with a suitability determination;
  - b. comply with reporting and recordkeeping requirements;
  - c. inspect, examine, and monitor all hemp-related activities on the Reservation on an annual basis;
  - d. enforce or cause to be enforced all Tribal laws, directives, rules, resolutions, and federal laws specifically applicable to hemp-related activities on the Reservation;
  - e. impose and collect fees and/or penalties;
  - f. monitor compliance of Licensee(s) on a continuous basis;
  - g. notify the Tribal Council of any act of noncompliance or illegality;
  - h. grant, suspend, and revoke Licenses and Permits;
  - i. investigate activities and conduct of all Licensees;
  - j. administer corrective action plans for Licensees to correct a negligent violation;

- k. supervise the destruction of all hemp crops that are to be destroyed pursuant to this Article or federal law;
- l. adopting policies to support the enforcement of this Article and applicable federal law and regulations; and
- m. hire adequate staff, provide training and equipment, to fulfill its responsibilities under this Article.
- n. When acting under the color of Tribal authority, the Commission shall enjoy all the privileges and immunities of the Tribe, including sovereign immunity from suit in the tribal, state or federal courts.
  - 1. The Commission shall have no authority to waive the sovereign immunity of the Tribe or any other Tribal entity;
  - 2. Nothing in this Article shall be deemed or construed to be a waiver of sovereign immunity from suit;
  - 3. Nothing in this Article shall be deemed or construed as consent to the jurisdiction of the United States, any state, or any other tribe regarding the business or affairs of the Commission; and
  - 4. Notwithstanding any other provision herein, as an entity of the Tribe, the Commission's immunity from suit shall always be deemed a waiver for actions initiated by the Tribe.

**8-306 Hemp License applications.**

- 1. An Applicant who wishes to grow, process, handle, transport, or store hemp within the Winnebago Tribe of Nebraska's jurisdiction must possess a valid License to do so.
- 2. The Commission shall determine the appropriate number of hemp Licenses. The Commission shall adopt a uniform licensing application form and a process for approval or denial of Licenses.
- 3. Any business that provide products or services related to the hemp industry shall be organized under the Winnebago Tribe of Nebraska's Tribal Code.
- 4. A Licensee who has had a License terminated shall not be eligible to reapply to the program for a period of five years from the date of License termination.
- 5. Applicants must undergo a criminal background check as part of an application for licensing. The Commission may require other background checks. When applying for a License, any owners, directors, and managers with signature authority, must each submit to relevant background checks.
- 6. The Commission may collect fees that are reasonable in the processing of License applications. Failure to pay the License fees will result in the denial of an application.

**8-307 Hemp License applications contents.**

- 1. Applications shall include at a minimum:
  - a. Full name, residential address, telephone number, and e-mail address, if available.
  - b. If Applicant is a business entity, the legal name of the business, the principal business location address, telephone number, the full name of the Applicant with signature authority, title, and e-mail address.
  - c. Documentation showing either a valid ownership, tenancy, or other legal interest in the proposed Lot.
  - d. Street address, legal description of the Lot, and GPS coordinates for each field, greenhouse, or building where hemp will be grown, handled, processed, or stored.

- e. Information regarding any other hemp growing or processing facility owned or licensed by Applicant that is licensed in any other jurisdiction.
  - f. Proof of insurance that includes worker's compensation insurance and general liability insurance.
  - g. Business and operations plan that includes: proposed acreage or indoor square footage to be planted or used for processing; description of facility proposed and number of employees; name of proposed facility manager; security plan with security system(s) and lighting plan showing outside lighting, and centrally alarmed and monitored security system service agreements; list of pesticides and chemicals proposed for use; description and plan of all equipment and methods employed to stop any impact to adjacent uses including assurances of no odor detected from outside the Lot; disposal plan of hemp and related by-products; statement of previous farming experience; and planned source of seeds.
2. Any Application missing the required information shall be subject to denial. The Commission shall notify the Applicant via e-mail. If an Applicant does not have e-mail, the Commission shall notify via U.S. Postal Service. If an Application is not corrected or supplemented within 30 calendar days after the Commission's notification, the Commission shall deny the application.
  3. The Commission shall notify Applicants by e-mail or letter whether the Application has been conditionally approved or denied. If the Commission sends a letter to the Applicant, it will be to the address listed on the Application.

**8-308 Lot Permits.** A Permit is required for each Lot that hemp is planted, grown, handled, processed or stored. The Commission shall adopt a uniform permitting Application and process for approval or denial of Lot Permits. Permits may only be issued to the Tribe and entities with a License. No Licensee shall have the expectation of privacy with respect to any Lot that is issued a Permit. Licensees, whether present or not, shall allow representatives of the Tribe and/or federal law enforcement agencies access to the Lot with or without cause and with or without advance notice. The Commission may collect fees that are reasonable to process Lot Permit Applications and Lot modifications. Non-payment of fees shall result in an Application for a Permit to be denied.

**8-309 Reporting and recordkeeping.**

1. The Commission's reporting requirements for the Winnebago Hemp Program at a minimum, must report and maintain records on the following information:
  - a. Retain information about Lots including the legal description, and GPS information for every Lot where the Commission has approved hemp to be grown;
  - b. Information about approved growing, processing, handling, and storage Lots to share with the Commission, Tribal police, and other law enforcement agencies whose representatives request registered Lot information, including the legal descriptions and GPS coordinates;
  - c. All Applications for licensure; grants and denials of Licenses; receipt of fees; distribution of fees; and revenues to the Commission;
  - d. A quarterly report to the Winnebago Tribe of Nebraska summarizing the Commission's official actions, activities, investigative reports, and reports received from any hemp producer as it deems necessary to keep the Tribe fully informed as to the status of the Commission's activities.

2. Not more than thirty days after receiving and compiling the following information, the Commission shall provide it to the USDA or the Secretary's designee:
  - a. The Licensee's legal (and common) name;
  - b. The Licensee's telephone number, e-mail address, residential address, mailing address, business address, or another form of contact information;
  - c. Legal description and GPS coordinates for each field, facility, or other place where hemp is licensed to be grown;
  - d. The license number; and
  - e. Whether the Licensee's License is in good standing.
3. A Licensee shall submit a complete and current Hemp Disposal Form to the Commission at least fifteen days prior to the intended harvest date or intended destruction date of a failed crop.
4. A Licensee shall submit a complete and current Planting Report form to the Commission within fifteen days after every planting, including replanting, of seeds or propagules in an outdoor Lot. Each Report shall identify:
  - a. Correct variety name of seeds as designated upon approval of an acquisition request or as approved by the Commission;
  - b. GPS location as listed in the Licensee's application; and
  - c. Primary intended use of the harvest for each planting.
5. A Licensee who does not plant hemp in an approved outdoor Lot listed in the Licensee's application, shall submit a Planting Report, on or before May 31, stating that hemp has not and shall not be planted at that Lot.
6. A Licensee shall submit a complete and current Greenhouse/Indoor Planting Report form to the Commission within fifteen days after establishing plants at an indoor Lot. Each Report shall identify:
  - a. Correct variety name of seeds as designated upon approval of an acquisition request or as approved by the Commission;
  - b. GPS location as listed in the Licensee's application;
  - c. Primary intended use of the harvest for each planting.
  - d. In addition to the initial Greenhouse/Indoor Planting Report, a Licensee with an approved greenhouse or indoor growing Lot Permit shall submit quarterly reports for each Lot identification to the Commission. These reports are due no later than March 31, June 30, September 30, and December 31.
7. The Commission shall promptly notify the USDA by certified mail or electronically of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and attach the records demonstrating the appropriate disposal of all of those plants and materials in the Lot.
8. The Commission must promptly notify USDA, either by electronic or certified mail of any samples from a registered Lot that do not meet the definition of hemp and a record demonstrating the disposal of all plants and materials from the sampled Lot.
9. The Commission will submit an annual report to USDA. The report shall be submitted annually by December 15 and contain: (1) total planted acreage; (2) total harvested acreage; and (3) total acreage disposed.
10. All required forms, reports, and records submitted to the Commission shall be kept for a minimum of three calendar years. Each Licensee and the Hemp Program are responsible for storing such records.

### **8-310 Testing.**

1. Hemp cultivated from each registered Lot shall be tested for delta-9 tetrahydrocannabinol concentration prior to harvest by an approved testing facility at the Licensee's expense. Within 15 days prior to the anticipated harvest of cannabis plants, a Tribal designated person shall collect samples from the flower material from such cannabis plants for delta-9 tetrahydrocannabinol concentration level testing. The method used for sampling must ensure that a representative sample is collected that represents a homogeneous composition of the Lot. During a scheduled sample collection, the Licensee or an authorized representative of the producer shall be present at the growing site. The Licensee must ensure the test results of the sample shall be certified directly to the Commission by the testing facility prior to harvest. Each Licensee must ensure the laboratory conducting the test of the sample reports the test results for all samples tested to the USDA. The test results shall identify by Lot identification where the hemp was cultivated. A Licensee may conduct as many tests as desired at the Licensee's expense.
2. The Commission shall have the authority to conduct random inspections of Licensees and all Permits to verify compliance with all requirements of the License issued. Inspection may include sampling by the Commission's inspectors for test to determine THC concentration levels in hemp or hemp products or any other Tribally defined purpose.
  - a. Inspections may be conducted at any time during regular business hours. Inspectors shall be granted unrestricted access to the Lot.
  - b. All samples collected by the Commission's inspectors shall become property of the Commission and no compensation shall be owed by the Commission for such samples.
  - c. The Commission shall keep test results for all hemp and hemp products tested for a minimum of three years.
3. Testing of hemp shall be conducted pursuant to standards adopted by the Commission using post-decarboxylation or other similarly reliable methods for the test of delta-9 tetrahydrocannabinol concentration.
4. The Commission shall create and maintain a list of approved testing facilities.
5. When a test result is adverse, the Commission must require a Licensee to submit remaining material from the initial sample for testing unless it has been determined that sampling was in error. An adverse test result may require destruction of any plants in the Lot containing non-compliant plants.

### **8-311 Crop Destruction.**

1. Hemp that contains a higher THC concentration level than the federally defined limit shall be disposed of by the Licensee in compliance with the Commission's rules and all applicable federal, state and local laws, regulations, rules, and other requirements.
2. If hemp contains a higher THC concentration level than the federally-defined limit, the harvest shall be promptly disposed of by the Licensee according to the following disposition: (1) hemp stalks may be harvested, processed, and used for fiber and/or any other lawful purpose; and (2) hemp seed may be harvested, processed, rendered non-viable for food products, provided it is sourced from hemp grown with seed certified pursuant to the Tribe's seed certification program, or certified by other seed agencies recognized by the Tribe.

3. Licensees shall have fourteen calendar days from the date of notification of test results higher than the federally defined THC concentration for hemp to contact the Commission in writing and apply for retesting or propose destruction or on-site utilization.
4. All hemp plant material not disposed of must be destroyed or utilized on-site in a manner approved of and verified by the Commission and in accordance with federal law.
5. Hemp subject to destruction or on-site utilization shall not be removed from the Lot unless otherwise authorized by the Commission.
6. Methods of destruction or on-site utilization may include, but are not limited to, incineration, composting, tilling into the soil, or grazing by livestock.
7. Except for hemp seeds rendered non-viable, all hemp subject to destruction or on-site utilization shall not be added to or processed into any consumable product.
8. A Licensee, whose hemp must be destroyed, is required to submit a Hemp Disposal Report at least fifteen days prior to the proposed crop destruction. The Report shall contain the following:
  - a. Lot ID of the hemp crop to be destroyed;
  - b. Variety/strain of the hemp crop;
  - c. Date of proposed destruction;
  - d. Proposed method of destruction;
  - e. Whether the destruction will be a complete destruction of all hemp at the site;
  - f. Photos of the hemp site proposed for destruction;
  - g. License number of the Licensee; and
  - h. Licensee's signature.
9. Any Licensee that fails to submit a Crop Destruction Report shall have its License revoked, shall be banned from participating in the Hemp Program in the future, and shall be subject to a civil penalty of up to \$2,500.

**8-312 Penalties.** Anyone who violates the Winnebago Tribal Code, Title 8, Article 3 (“Hemp”) whether intentionally or negligently, is subject to any of the following penalties:

1. Immediate License suspension. The Commission shall immediately suspend a License, without an opportunity for a hearing; if:
  - a. The Licensee pleads guilty to, or is convicted of, any felony or drug-related misdemeanor; or
  - b. The Licensee or agent of Licensee admits to having made any false statement to the Commission or failed to comply with any instruction or order from the Commission or any law enforcement officer.
2. License suspension and revocation. The Commission will notify a Licensee in writing when a License has been suspended or revoked when a Licensee has:
  - a. Violated the Tribal Code;
  - b. Materially falsified any information in the application process;
  - c. Made a false statement to the Commission or a law enforcement agency;
  - d. Found to be growing or in possession of cannabis with a measured delta-9 concentration level above 0.3 percent on a dry weight basis; or
  - e. Failed to comply with an order from the Commission or a law enforcement agency.
3. Consequences of License suspension. A Licensee who has been suspended shall not harvest, process, or remove hemp or other cannabis from the site at the time when the Commission issued its notice of suspension, except as authorized by the Commission. As soon as possible



- after notification of suspension, the Commission shall inspect the Licensee's Lot and perform an inventory of all cannabis, hemp, and hemp products that are in a Licensee's possession.
4. Corrective Action Plan. A Licensee who is determined to have negligently violated the requirements of this Article shall be subject to a Corrective Action Plan (CAP) at the discretion of the Commission. CAPs issued by the Commission shall include, at a minimum, the following information:
    - a. A reasonable date by which the Licensee shall correct the violation; and
    - b. A requirement for periodic reports from the Licensee about compliance with the Corrective Action Plan and other requirements for a period of not less than two years from the date of the Corrective Action Plan.
  5. Civil Penalties. If the Commission receives information supporting a determination that it is more likely than not that a Licensee has engaged in conduct violating this Article, then the Commission may assess a monetary civil penalty not to exceed \$2,500 per violation.
  6. Forfeiture. Any hemp on the Winnebago Indian Reservation is subject to forfeiture and destruction, without compensation, if it is possessed without a License or at an unpermitted Lot. Equipment used for the business or personal use of hemp is subject to forfeiture if it is used by a person who does not possess a License.
  7. Mandatory reporting. Any person who is found by the Commission to have violated any part of this Article governing the participation in the Hemp Program with a culpable mental state greater than negligence shall be reported to Tribal law enforcement, the General Counsel and federal law enforcement agencies, including the United States Attorney General.

WINNEBAGO TRIBAL CODE  
TITLE 8 ARTICLE 4

TITLE 8  
NATURAL RESOURCES

ARTICLE 4  
CULTURAL RESOURCE PROTECTION CODE  
(Enacted \_\_\_\_\_)

8-401 Authority.	8-407 Mitigation of Adverse Effects.
8-402 Intent and Purpose.	8-408 Tribal Monitors.
8-403 Definitions.	8-409 Enforcement.
8-404 Tribal Historic Preservation Officer.	8-410 Protection of Cultural Materials.
8-405 Cultural Resource Review Process.	8-411 Permits.
8-406 Determination of Adverse Effects.	8-412 Confidentiality and Disclosure.

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**8-401 Authority.** This Cultural Resource Protection Code is adopted by the Winnebago Tribe of Nebraska's Tribal Council. This Code will be referred to as the Cultural Resource Protection Code and/or the Tribal Historic Preservation Office Code.

**8-402 Intent and Purpose.**

1. The protection of historical and archeological properties and cultural resource preservation for the Winnebago Tribe of Nebraska ensures that their future generations will have a genuine opportunity to thrive within the native ancestral heritage and on a sustainable homeland.
2. The Winnebago Tribe of Nebraska is committed to protecting its cultural resources by establishment of a preservation program to identify, evaluate, and protect cultural, historic and archaeological resources and by regulating undertakings on Tribal lands and Aboriginal Homelands when those undertakings may result in changes in the character or use of such cultural resources. Also included in the Tribe's commitment are sacred sites, habitations, and historical events. It is recognized that these cultural resources are invaluable, irreplaceable and endangered. It is a basic Tribal intent that these resources be protected and preserved on Tribal lands and Aboriginal Homelands.
3. It is recognized that cultural items, elder stories, historical data, and legends and accounts are invaluable, irreplaceable and endangered Tribal resources. It is a basic Tribal intent that these resources be protected and preserved on Tribal lands and Aboriginal Homelands.
4. This Code is enacted to provide Tribal guidance for protecting, for preserving, and for the Tribal regulation of Winnebago cultural resources in conjunction with the provisions of the following federal laws which acknowledge and affirm certain Tribal authority over cultural resources:
  - Archaeological Resources Protection Act ("ARPA"), 16 U.S.C §§ 470 cc(g)(2), 470dd and 470gg(c);
  - National Historic Preservation Act ("NHPA"), as amended 54 U.S.C. § 300101 et seq. (formerly 16 U.S.C § 470, et seq.);
  - Native American Graves Protection and Repatriation Act ("NAGPRA"), 25 U.S.C. § 3001, et seq.;
  - National Indian Forest Resource Management Act, 25 U.S.C. § 3108;

- American Indian Religious Freedom Act (“AIRFA”), 42 U.S.C. § 1996; and
- National Environmental Protection Act (“NEPA”), 42 U.S.C. § 4321 et seq.

**8-403 Definitions.** For the purposes of Cultural Resource Protection Code, the following definitions will apply:

1. “Aboriginal Homelands” means lands that the Winnebago/Ho-Chunk people were removed to or resided on or have a traditional, spiritual interest in prior to European contact, including all land within the external boundaries thereof.
2. “Adverse Effect” exists when an undertaking may alter, directly or indirectly, any of the characteristics of a cultural resource in a manner that would diminish the integrity of the resource’s location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a cultural resource. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance, or be cumulative.
3. “Allotted lands” are lands held in trust and owned by individual Tribal members within the exterior boundaries of the reservation.
4. “Associated funerary objects” means those funerary objects for which the human remains with which they were intentionally placed are also in the possession or control of a museum or Federal agency. Associated funerary objects also means those funerary objects that were made exclusively for burial purposes or to contain human remains.
5. “Burial site” means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which, as part of the death rite or ceremony of a culture, individual human remains were deposited, and includes rock cairns or pyres which do not fall within the ordinary definition of gravesite as defined in 36 CFR § 10.2(d)(1)(2)(i)(ii)(3)(4).
6. “Culture” means the traditions, beliefs, practices, lifestyle, arts, oral/documented history and social institutions of the Winnebago Tribe of Nebraska.
7. “Cultural resource” means:
  - A. Any significant location in the landscape which Winnebago people ascribe cultural significance to;
  - B. Traditional cultural property as defined by the Tribe;
  - C. Archaeological resource(s) as defined in 43 CFR § 7.3(a)(1)(2)(3)(i)-(x);
  - D. A site of religious or cultural importance as defined in 43 CFR § 7.32(a);
  - E. Historic property as defined in 36 CFR § 800.16(I)(1);
  - F. Named plant species identified as possessing spiritual and/or medicinal qualities as defined by the Tribe.
8. “Effect” means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.
9. “Funerary objects” means items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects must be identified by a preponderance of the evidence as having been removed from a specific burial site of an individual affiliated with a particular Indian tribe or as being related to specific individuals or families or to known human remains.
10. “Ground Disturbing” means any work, operation or activity that results in a disturbance of the ground surface including, without limitation, excavating, digging, trenching, plowing, drilling, tunneling, auguring, backfilling, blasting, topsoil stripping, land leveling, sod removal, quarrying and grading.
11. “Human skeletal remains” means any part of the human body in any state of decomposition.

12. "Inadvertent Discovery" means the unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of land.
13. "Intentional Excavation" means the planned archeological removal of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of land.
14. "National Register" means the National Register of Historic Places maintained by the United States National Park Service as authorized by the National Historic Preservation Act of 1966, 54 U.S.C. § 300101 et seq.
15. "Native American" means of, or relating to, a tribe, people, or culture that is indigenous to the United States.
16. "No affect." A finding of no adverse effect means that either there are no historic properties present or there are historic properties present but the undertaking will have no effect upon them as defined in 36 CFR § 800.16(i), the agency official shall provide documentation of this finding, as set forth in 36 CFR § 800.11(d), to the SHPO/THPO. The agency official shall notify all consulting parties, including Indian tribes and make the documentation available for public inspection prior to approving the undertaking
17. "Non-Ground Disturbing" means any activity where the ground surface is not disturbed which would include, but not be limited to, crushing/pressing vegetation, clearing vegetation, mowing vegetation, or burning vegetation.
18. "Objects of cultural patrimony" means items having ongoing historical, traditional, or cultural importance central to the Indian tribe or itself, rather than property owned by an individual Tribal member. These objects are of such central importance that they may not be alienated, appropriated, or conveyed by any individual Tribal or organization member. Such objects must have been considered inalienable by the culturally-affiliated Indian tribe at the time the object was separated from the group. Objects of cultural patrimony include items such as Zuni War Gods, the Confederacy Wampum Belts of the Iroquois, and other objects of similar character and significance to the Indian tribe as a whole.
19. "Offering places" denote the loci within a Winnebago TCP where an important individual cultural activity takes place as defined by the Tribe such as a setting out a tobacco offering.
20. "Person" means any individual, partnership, association, corporation, and any other entity composed of individuals, and federal, tribal, and state governmental entities or agencies.
21. "Prayer places" denote the loci within a Winnebago TCP where an important cultural activity takes place as defined by the Tribe such as a communal ceremony or an individual performing a ceremony.
22. "Sacred objects" means items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
23. "Sacred Site" means any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion; provided that the Tribe or appropriately authoritative representative of an Indian religion has informed the agency of the existence of such a site. Exec. Order No. 13007 (1996).
24. "Site" is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.
  - A. A site can possess associative significance or information potential or both, and can be significant under any or all of the four criteria. A site need not be marked by physical remains if it is the location of a prehistoric or historic event or pattern of events and if no buildings, structures, or objects marked it at the time of the events. However, when the

- location of a prehistoric or historic event cannot be conclusively determined because no other cultural materials were present or survived, documentation must be carefully evaluated to determine whether the traditionally-recognized or identified site is accurate.
- B. A site may be a natural landmark strongly associated with significant prehistoric or historic events or patterns of events, if the significance of the natural feature is well documented through scholarly research.
25. “THPO” means the Tribe’s Tribal Historical Preservation Officer.
26. “Traditional Cultural Property (“TCP”)” means a loci representing any location in the landscape that the Winnebago Tribe of Nebraska’s people ascribes cultural significance to. TCP’s possess meaningful features and physical characteristics which lend themselves to the performance of a significant cultural activity.
- A Winnebago TCP is the loci representing any location on the Winnebago Tribe of Nebraska Reservation; where an important Winnebago cultural activity occurred and has cultural significance to the Winnebago people;
  - Or outside the reservation boundaries of the Winnebago Tribe of Nebraska’s Reservation where an important Winnebago cultural activity occurred and has cultural significance to the Winnebago people but still within it aboriginal territory.
27. “Traditional Religious Leader” means a person who is recognized by members of an Indian tribe as:
- A. Being responsible for performing cultural duties relating to the ceremonial or religious traditions of the Indian tribe, 43 CFR § 10(d)(3)(i); or
- B. Exercising a leadership role in the Indian tribe based on the Tribe’s cultural, ceremonial, or religious practices, 43 CFR § 10(d)(3)(ii).
28. “Tribal Lands” means within the exterior boundaries of Winnebago Tribe of Nebraska Indian reservation including, but not limited to, allotments held in trust or subject to a restriction on alienation by the United States; or
- Tribal lands also comprise dependent Indian communities as recognized pursuant to 18 U.S.C. § 1151.
29. “Tribe” means the Winnebago Tribe of Nebraska.
30. “Unassociated funerary objects” means those funerary objects for which the human remains with which they were intentionally placed are not in the possession or control of a museum or Federal agency. Objects that were displayed with individual human remains as part of a death rite or ceremony of a culture and subsequently returned or distributed according to traditional custom to living descendants or other individuals are not considered unassociated funerary objects.
31. “Undertaking” means a project, activity, or program implemented on trust lands within the exterior boundaries of the Winnebago Tribe of Nebraska’s reservation, funded in whole or in part under the direct or indirect jurisdiction of a Federal agency/Winnebago Tribal entity, including those carried out by or on behalf of a Federal agency/Winnebago Tribal entity; or those carried out with Federal financial assistance; and those requiring a Federal permit/Winnebago Tribal permit.

**8-404 Tribal Historic Preservation Officer.** The Tribal Historic Preservation Officer (“THPO”) shall carry out this Cultural Resource Protection Code and be responsible for administering the Tribe’s historic preservation program set forth in this Code. The THPO shall have the following duties and responsibilities:

1. To identify and nominate sites, buildings, districts and objects on Tribal Lands and Aboriginal Homelands that appear to qualify for listing on the THPO Tribal Register. The THPO shall first do the following tasks in order to compile the information needed to review each nomination:
  - A. Conduct a comprehensive survey of the property;
  - B. Compile an inventory that includes basic information about the location and history of the property;

- C. Evaluate the property surveyed with regard to its historic, archaeological, and cultural significance;
  - D. Based on the evaluation, classify the property into one of categories of significance;
    - Prehistoric;
    - Historic;
    - Historic District;
    - Building;
    - Structures;
    - Archaeological Resource; or
    - Winnebago TCP and Winnebago TCP sites.
2. To identify and nominate sites, buildings, districts and objects that appear to be eligible for placement in the National Register, present them to the Winnebago Tribal Council for review, and prepare applications for the same.
  3. To assist and consult with the Tribal programs on issues relating to the conservation of historic and archaeological resources and on other matters within the scope of THPO duties.
  4. To initiate measures to ensure, at a minimum, that where a property listed on the Tribal Register is to be substantially altered or affected, timely steps be taken to make or have made records, including measured drawings, photographs and maps of the property, and that a copy of such records then be deposited in the Tribal archives for future use and reference. The THPO shall use its best efforts to assure adequate surveying, testing, salvaging, analysis reporting, and curation of cultural materials, where such is feasible.
  5. To recommend measures and procedures to the Tribal Council to provide for the maintenance, preservation, rehabilitation and restoration of Tribally-owned historic sites at professional standards.
  6. To take actions for the purpose of promoting historic preservation efforts. Such efforts shall include, but not limited to:
    - A. Developing and making available to Tribal departments information concerning professional methods and techniques for identifying, preserving, stabilizing, improving, restoring and maintaining archaeological and historic properties;
    - B. Advising Tribal departments on the evaluation, identification, preservation, stabilization, improvement, restoration and maintenance of historic and archaeological properties;
    - C. Encouraging training and education in the field of archaeological and historic preservation.
  7. To provide public information, and technical assistance relating to the Tribal Historic Preservation Program.
  8. To submit an annual report of program activities to the Tribal Council.
  9. To develop Tribal permits for undertakings that are implemented on trust lands within the exterior boundaries of the Winnebago Tribe of Nebraska's reservation. THPO shall have the authority to issue such permit and revoke with cause such permit.

**8-405 Cultural Resource Review Process.** Any person, Tribal department, or federal or state agency that is involved in any undertaking on Tribal Lands is required to contact the THPO during the planning stage of the undertaking for a determination of whether such undertaking is located on or may impact a nearby cultural resource of the Tribe, including properties listed in or eligible for listing in the Tribal Register or National Register.

The THPO will conduct a cultural resource review in accordance with these Policies and Procedures. The cultural resource review shall be coordinated, as appropriate, with the overall planning schedule for the undertaking and with any reviews required under applicable laws of the Tribe and Federal laws, including, but not limited to, NEPA, NAGPRA, AIRFA, and ARPA.

The person, Tribal department, or federal or state agency shall coordinate compliance with the cultural resource review as prescribed in these Policies and Procedures. Tribal departments should consider the cultural resource review responsibility as early as possible in the review process and plan public participation, analysis, and review in such a way that the department can meet the purposes and requirements of these Policies and Procedures in a timely and efficient manner.

It is the responsibility of the Planning Party to make sure that any undertaking does not adversely affect any cultural resources. If a determination is made that an undertaking may have an adverse effect on cultural resources, the person, Tribal department, or federal or state agency shall meet with the THPO to decide what is best to minimize or neutralize any adverse effect on the cultural resources.

### Cultural Resource Review

A cultural resource review shall include the following:

1. A determination and documentation of the area of potential effect;
2. A review of existing information on Tribal cultural resources, including any data concerning possible cultural properties;
3. A seeking of information, as appropriate, from concerned Tribal departments and other individuals likely to have knowledge of, or concerns with, Tribal cultural resources in the area;
4. Identification of issues relating to the undertaking's potential effect on Tribal cultural resources;
5. Identification of cultural resources that may be affected or impacted by the undertaking; and
6. Evaluation of the cultural significance to the Tribe and/or its members of the cultural resource.

**8-406 Determination of Adverse Effects.** The Department of Interior Bureau of Indian Affairs ("BIA") is the land manager of all trust lands lying within the exterior boundaries of the Winnebago Tribe of Nebraska Reservation; as such, it is the trust responsibility of the BIA Archeologist to issue a determination of no historic properties affected or potential affect, i.e., adverse effect. The THPO must either concur or not-concur with such a determination. The criteria of determining an adverse effect that the BIA archeologist implements is found in 36 CFR § 800.5 (a)(1). Adverse effects on cultural resources include, but are not limited to:

- An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National or Tribal Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National or Tribal Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

**8-407 Mitigation of Adverse Effects.** If the BIA and with THPO concurrence, determines that an undertaking will have adverse effects on a cultural resource, the THPO shall consult with concerned Tribal departments, Tribal members, and Tribal Council to get feedback on what mitigation alternatives need to be taken to protect the cultural resource. Five mitigation alternatives must be considered:

1. Mitigation alternative 1 – avoidance;
2. Mitigation alternative 2 – buffer zone;
3. Mitigation alternative 3 – fence out;
4. Mitigation alternative 4 – site excavation; and
5. Mitigation alternative 5 – project relocation.

**8-408 Tribal Monitors.** The THPO requires the use of Tribal Monitors for contractors on any undertaking involving ground disturbance to ensure the protection of cultural resources, and provide other monitoring activities on behalf of the Tribe. The THPO grants authority to Tribal Monitors to halt an activity in the area of an undertaking when the potential of an adverse effect may impact a cultural resource. Tribal Monitors are identified by the THPO (HR recommendations) and their services are charged to the contractor. See Appendix for fee schedule and job description.

**8-409 Enforcement.**

1. Prohibited Activities:
  - A. No person knowing or having reason to know that a protected site or protected object is present may excavate, injure, remove, damage, destroy or in any way alter such protected site or protected object located on Trust Lands unless that activity is authorized by the THPO.
  - B. No person, knowing or having reason to know that a protected object or culturally relevant materials are involved, shall sell, purchase, exchange, transport, receive, or offer to sell or exchange any protected object if such object was excavated or removed from Tribal trust lands in violation of this Code and Federal law.
2. Inspection:
  - A. The THPO, for the purpose of compliance with this Code may inspect, at any reasonable time the area of potential effect of an undertaking.
  - B. No person shall prevent the THPO from coming on the work site for the inspection
3. Appeal and Review: A person aggrieved by a final action of the THPO may seek review of such action by appealing to the THPO's supervisor and the decision shall be final.
4. Protection of Sacred Sites and Recovery of Sacred Materials:
  - A. The Tribal Council, through the THPO, shall take such actions as are necessary to protect sacred sites identified by traditional religious leaders. The Tribal Council and the THPO may disseminate information regarding the nature of Tribal sacred objects as identified by traditional religious leaders and take such actions as are necessary to recover sacred objects that have been illegally obtained.
  - B. The Tribal Council shall take such actions as it deems necessary to ensure that Tribal members are granted access to sacred sites.

**8-410 Protection of Cultural Materials.**

1. Purpose and Intent. It is the intent of this Section to protect materials of particular cultural significance to the Tribe. This regulation is intended to prevent abuse of Tribal privileges by individuals, to protect cultural materials so that they may be available for future generations, and to define what are included as cultural resources so that the public may be aware that such resources have special significance to the Tribe.
2. Designation of Cultural Materials. The THPO, with approval of the THPO's supervisor and the Tribal Council, shall have the authority to designate cultural resources and maintain a list of the same. Such list shall not be considered exhaustive.



## 8-411 Permits.

### 1. Tribal Archeological Survey Permit:

Tribal Archeological Survey Permits can be obtained from the Tribal Historic Preservation Office/Angel DeCora Museum located on the Little Priest College Campus, at the Thunder Clan Building 309, Winnebago, NE 68071.

Excluding the BIA, no archeological investigations or studies, i.e., archeological surface inspection surveys relating to the Winnebago Tribe of Nebraska's cultural resources, may be conducted on trust lands within the exterior boundaries of the reservation without prior authorization to perform such investigations or studies without first obtaining a Tribal Archeological Survey Permit obtained via the Tribal permitting process as described below.

- A. A non-refundable permit application fee of \$100.00 must be paid prior to obtaining a Tribal Archeological Survey permit. All work being conducted shall be pursuant to the terms and conditions of the permit.
  - B. The Principal Investigator (and only the Principal Investigator) must first obtain a BIA Project Number for the survey.
  - C. Applications shall include, but not limited to the following:
    - i. Location map, including legal description;
    - ii. A specific description of the project;
    - iii. The purpose of the project and need for this project;
    - iv. Project dates and length of the project; and
    - v. Name, address, email and telephone number of the Principal Investigator.
2. After all of the above information is given the THPO office, the THPO or the Tribal Historic Preservation Officer's Administrative Assistant will issue a Tribal Archeological Survey Permit. The Principal investigator will need to carry the permit on them at all times during fieldwork. **Failure to obtain a permit will result in a fine of \$200.00; payable to the THPO program.**

Upon completion of the investigation/study a final report must be submitted to the Bureau of Indian Affairs Regional Office, Division of Environment and Cultural Resource Management in Aberdeen, SD.

**8-412 Confidentiality and Disclosure.** A determination regarding the nature and cultural significance of cultural resource may involve the use of sensitive and confidential information regarding Tribal customs, beliefs, practices and location which are to be treated as confidential; such information should not be made, shared, given or used for personal or public use.

## APPENDIX

### WINNEBAGO TRIBE of NEBRASKA TRIBAL MONITOR JOB DESCRIPTION

#### POSITION SUMMARY:

The incumbent will be an Independent Contractor representing the Winnebago Tribe of Nebraska. The Tribal Monitor will report all findings directly to Winnebago Tribe of Nebraska's Cultural Preservation Office/Tribal Historic Preservation Officer. These reports will include findings on the following activities which occur on the Winnebago Tribe of Nebraska's Tribal Lands, Tribal Trust Lands and Allotted Lands: TCP Surveys, ground disturbing projects, construction projects, and other activities as designated by the THPO.

#### SERVICES TO BE PERFORMED

Tribal Monitor shall perform the following services:

1. Be on site during all phases of each project.
2. Observe ground disturbing activities.
3. Ensure Winnebago cultural sites, TCP sites, Winnebago TCP site, and artifacts are identified, and ensure that these sites and artifacts are not destroyed during any project or ground disturbing activity.
4. Maintain a daily written report of everything that is observed during each project's activities. Pictures will be taken throughout each project for documentation purposes.
5. All reports and pictures will be submitted to the THPO daily. All reports and pictures submitted will become property of the Winnebago Tribe of Nebraska.
6. Incumbent will adhere to all rules and conditions of the contract.
7. Adhere to the NAGPRA regulations as described in the Tribe's Cultural Resource Protection Code.
8. Ability and knowledge to use 35 mm, digital and/or video cameras, binoculars, compass, and cellular phone. (will need to provide own equipment).
9. Ability to review, interpret, and understand quad maps and blue prints.
10. Understanding of federal, tribal, and state laws and regulations pertaining to antiquities on public, private, and Tribal lands.
11. Ability to follow directions, multitask, and to be aware of your surroundings.
12. Interpersonal communications skills verbally and in written format.
13. Works well with others and without supervision, and manages time wisely.
14. Ability to walk long distances, stand for long periods, able to lift up to 50 pounds, bend, stoop down, withstand exposure to sunlight and extremes in temperature.

#### EDUCATION/EXPERIENCE:

High school diploma/GED or any combination of education and experience providing the required skill and knowledge for successful performance of the duties. Typical qualification would be equivalent to:

1. Relevant field experience working in archaeology and/or cultural resource management.
2. Conducting TCP site surveys (identify, document, record and protect).
3. THPO cultural monitoring certificate or other similar training.
4. Experience working with tribes and other federal agencies.

**CONDITIONS OF CONTRACT:**

**All Tribal Monitor Fees will be the responsibility of the contractor, Principal Investigator, permittee (see WTN Fee Schedule)**

A Winnebago THPO Tribal Monitor will not represent the Winnebago Tribe of Nebraska for any reason; unless they are under contract for services, they will not work for an Archeological Ground Survey Crew to conduct field surveys of any kind.

All contract and contractors will adhere to the Tribe's Drug and Alcohol Free Work Place Policy.

Must have a valid Driver's License, proof of insurance and reliable vehicle.

**Winnebago Tribe of Nebraska  
Tribal Historic Preservation Office**

**FEE SCHEDULE OF SERVICES**

The following services are those provided by the Winnebago Tribe of Nebraska THPO in regards to professional services solicited under the National Historic Preservation Act of 1966, as amended. 25 U.S.C. §§ 300101 et seq.

The payment of fees for professional services rendered by Indian tribes during the identification phase of consultation has been established by the Advisory Council on Historic Preservation in the following excerpt of a memorandum issued July 6, 2001 and updated April 26, 2002:

*When, during the identification phase of the Section 106 process, an agency or applicant seeks to identify historic properties that may be significant to an Indian tribe, it may ask for specific information and documentation regarding the location, nature, and condition of individual sites, or actually request that a survey be conducted by the tribe.*

*In doing so, the agency essentially asks the tribe to fulfill the role of a consultant or contractor. In such cases, the tribe would seem to be justified in requiring payment for its services, just as any other contractor. The agency or applicant is free to refuse, but retains the obligation for obtaining the necessary information for the identification of historic properties, the evaluation of their National Register eligibility, and the assessment of effects on the historic properties.*

Thus, in the course of soliciting information from the THPO, the request for information regarding places/sites/resources of importance to the Tribe triggers a consultant role for the THPO in regards to searching its records, interviewing elders, or performing other professional services to aid in the resolution of the identification phase of the Section 106 process.

The fees charged for certain services are provided below:

*Review of Historical/Cultural Records Research,  
Archaeological Records Review, Report Preparation,  
Review of Planning Documents..... \$500.00 per request  
Construction Monitoring..... \$400.00day + \$52.50hr. + mileage, per diem, and lodging  
TCP Surveying..... \$400.00day + \$52.50 hr. + mileage, per diem, and lodging  
Site Visitation..... \$200.00day + appropriate mileage, per diem, and lodging*

These fees are not absolute but shall serve as a baseline for the THPO when estimating the cost of their services on any particular project.

# WINNEBAGO TRIBE OF NEBRASKA

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## RESOLUTION #18-47

### Winnebago Tribe of Nebraska's Tribal Cultural Resource Protection And Tribal Historic Preservation Office Act

**WHEREAS**, the Winnebago Tribe of Nebraska is a federally-recognized Indian Tribe organized pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984), (25 USC 476) as amended by the Act of June 15, 1935 (49 Stat. 378); and

**WHEREAS**, pursuant to Article 1 of the Winnebago Tribal Constitution and its inherent powers of self-government, the Tribal Council is vested with the power, inter alia, "this Constitution shall apply to the territory embraced in the Winnebago Reservation in Nebraska, as the same as described by the Treaty of March 8, 1865 (14 Stat. 671) and the twenty (20) Sections included in the strip purchased in Nebraska for Wisconsin Winnebago's (18 Stat. 170, June 22, 1874) and such lands as may be added by Congress of the Tribe or reaffirmation of the title to lands through the courts to the Tribe except as otherwise provided by law"; and

**WHEREAS**, pursuant to Article IV, Section 1 (c) of the Winnebago Tribal Constitution and its inherent powers of self-government, the Tribal Council is vested with the power, inter alia, "to safeguard and promote the peace, safety, morals and general welfare of the Tribe"; and

**WHEREAS**, the culture, traditions and spirit of the Winnebago Tribe of Nebraska ("WTN") is founded upon and reflected in its cultural heritage; and

**WHEREAS**, the cultural foundation of WTN should be preserved and protected as a living part of our community and development in order to give a sense of identification to the Winnebago tribal members; and

**WHEREAS**, cultural resources of the WTN are being lost, substantially altered, being destroyed rather frequently, due to increasing development and with the loss of traditional knowledge of these cultural resources; and

**WHEREAS**, measures are necessary to protect and preserve our cultural resources, our tribal history in our modern society and our prehistoric, historic and cultural resources can exist in harmony and fulfill the need for development and to present these to our future generations; and

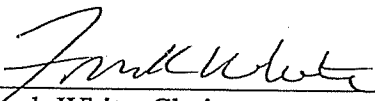
**WHEREAS**, the self-governing capabilities, political integrity, our identity of WTN will be enhanced and protected by WTN governmental control, regulation and preservation of our cultural resources which are essential for the well-being of the Winnebago Tribe of Nebraska's tribal membership and for future generations.


**NOW, THEREFORE BE IT RESOLVED** that the Winnebago Tribe of Nebraska hereby adopts the attached Winnebago Tribe of Nebraska's Tribal Cultural Resource Protection and Tribal Historic Preservation Office Act as an exercise of sovereign authority and to insure that matters of historic preservation are addressed.

CERTIFICATION

We, the undersigned Officers of the Winnebago Tribal Council, hereby certify that on the 14 day of March, 2018; at a meeting duly convened by the Winnebago Tribal Council, voted to adopt the above Resolution by a vote of 6 for, 0 against with 1 abstentions with the Chairman and 1 members not voting.

Dated this 14 day of March, 2018.

  
Frank White, Chairman  
Winnebago Tribal Council

  
Coly Brown, Secretary  
Winnebago Tribal Council



# THPO Cultural Resource Protection Permit

## Permit Requirements

No archeological investigation work or studies relating to the Winnebago Tribe of Nebraska's cultural resource may be conducted on tribal trust lands within the exterior boundaries of the reservation without prior authorization to perform such studies via the THPO permitting process; excluding the Bureau of Indian Affairs (BIA).

In the event a consulting Archeologist is hired to perform such studies within the exterior boundaries of the reservation, the Primary Investigator (and only the Primary Investigator) must obtain an ARPA permit from the BIA.

A non-refundable fee of \$100.00 must be paid prior to obtaining a THPO permit. This fee will cover costs associated with the permit administration. All work being conducted shall be pursuant to the terms and conditions of the permit.

Any person who intends to conduct any archeological investigation within the exterior boundaries of the Winnebago Tribe of Nebraska's reservation must submit an application for a permit prior to the start of any fieldwork.

All application shall include, but not limited to the following:

1. Location map, including legal description
2. A specific description of the project
3. The purpose of the project and need for this project
4. Project dates and length of the project; 48 hour notice to start of field work
5. A definite outline of the proposed work, indicating the name of the individuals or group making the request, the date proposed for beginning the field work, the length of time proposed to be devoted to it and the person who will have immediate charge of the work
6. Each application shall be signed by the applicant and verified upon oath or affirmation, and shall contain the promise of the applicant to abide and be bound by all of the provisions of these Polices & Procedures and by all other tribal laws
7. Name, address and telephone number of the Principal Investigator
8. The BIA ARPA permit number will need to be included on the application
9. Any other information that is deemed necessary.

After all of the above information is given the THPO office, the THPO or its designee will issue a THPO permit. The Principal investigator will need to carry the THPO permit on them at all times during fieldwork.

## Terms and Conditions of the Permit:

Any permit may contain such terms and conditions that the THPO deems necessary on a case-by-case basis to carry out the purposes of this Code.

Each permit shall identify the Principal Investigator as to who will be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Code and other

# THPO Cultural Resource Protection Permit

laws applicable to the permitted activity. The permittee is required to have a Winnebago Tribe of Nebraska Tribal Monitor on site during the investigation/study. During the investigation/study, should an Inadvertent Discovery occur, as defined in the Winnebago Tribal Code Title 8 § 3.9, the Inadvertent Discovery should be immediately brought to the Winnebago Tribe of Nebraska Tribal Monitor's attention. The Monitor may use his or her discretion to halt further investigation/study until the THPO office has provided guidance.

Every permit shall be issued in the name of the Principal Investigator. No permit shall be transferable; nor shall the holder of any permit allow any other person to use the permit. The sensitivity of the location of the undertaking and any other criteria knowledge that is determined by the THPO is going to be treated as confidential.

Upon completion of the investigation/study, a final report must be submitted to the Bureau of Indian Affairs Regional Office in Aberdeen SD to the Division of Environment, Safety and Cultural Resources Management.

## **Modification or Revocation of Permit:**

Any permit issued under this Code may be modified, suspended or revoked by the THPO in accordance with the procedures as set forth herein upon determination by the THPO that the permittee has violated any provision of the permit, this Code, or other applicable law.

Hearing. Upon written notice specifying the alleged grounds for revocation or suspension, filed by the permittee with the THPO's supervisor. The THPO's supervisor or designee shall schedule a hearing to determine the matter, which hearing shall be not less than five days or more than thirty days after the service of such notice upon the permittee.

The permittee shall be entitled to an opportunity to appear at such hearing and present an argument and/or evidence as to why the permit should not be revoked or suspended.

## **Stop Work Orders:**

Upon finding that a delay in suspending or revoking a permit for the period required by a hearing would be contrary to the tribal interest in preserving archaeological or historic properties, THPO may issue a written stop work order, directing the permittee immediately to cease and desist all excavation, removal or other activity pursuant to the permit.

It shall be unlawful for any person to disobey a stop work order. In all cases where a stop work order has been issued, the THPO's supervisor or designee shall immediately schedule a hearing to determine the matter, which hearing shall not be less than two days nor more than ten days after the date of the stop work order, unless continued by the THPO upon motion of the permittee.

## **Confidentiality and Disclosure:**

A determination regarding the nature and cultural significance of cultural resource may involve the use of sensitive and confidential information regarding Tribal customs, beliefs, practices and



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location which are to be treated as confidential; such information should not be made, shared, given or used for personal or public use of the undertaking and any other criteria knowledge that is determined by the THPO is going to be treated as confidential.

# Winnebago Tribe of Nebraska



## THPO CULTURAL RESOURCE PROTECTION PERMIT APPLICATION

Date: \_\_\_\_\_ THPO Permit No. \_\_\_\_\_ BIA Permit NO. \_\_\_\_\_

INSTRUCTION: This form needs to be completed completely by the Principal Investigator, and return to the Tribal Cultural Preservation Office. (A Permit Fee will be paid when this application is returned)

Please include all of the following information:

Name of Firm/Institution: \_\_\_\_\_  
Principal Investigator Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

Location map, including legal description (attach maps):

\_\_\_\_\_  
\_\_\_\_\_

Project Title and the purpose of the project and project description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Fieldwork to Begin: \_\_\_\_\_ Date Fieldwork to End: \_\_\_\_\_

Name, Title, Education and year of experience of Individuals working on the Field Crew:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have reviewed the application and do certify that it is correct and factual. I will be responsible for submitting any changes to the above information 24 hours prior to the change. I hereby agree that this Firm/Institution will abide by any and all conditions set forth in this permit and the Winnebago Tribe of Nebraska's Cultural Resource Protection Code.

# Winnebago Tribe of Nebraska



In accordance with the Cultural Resources Protection Code of the Winnebago Tribe of Nebraska, the Cultural Preservation Director/Tribal Historic Preservation Officer and/or their Appointee (Administrative Assistant THPO) shall receive Permit Applications and Permit Application Fee prior to the issuance of the THPO permit and prior to the start of any survey work within the exterior boundaries of the Winnebago Tribe of Nebraska's Reservation.

## Terms and Conditions of the Permit:

Any permit may contain such terms and conditions that the THPO deems necessary on a case-by-case basis to carry out the purposes of this Code.

Each permit shall identify the Principal Investigator as to who will be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Code and other laws applicable to the permitted activity. The permittee is required to have a Winnebago Tribe of Nebraska Tribal Monitor on site during the investigation/study.

Every permit shall be issued in the name of the Principal Investigator. No permit shall be transferable; nor shall the holder of any permit allow any other person to use the permit. The sensitivity of the location of the undertaking and any other criteria knowledge that is determined by the THPO is going to be treated as confidential.

Upon completion of the investigation/study a final report must be submitted to the Bureau of Indian Affairs Regional Office in Aberdeen SD. to the Division of Environment, Safety and Cultural Resources Management.

Providing that the Individual and/or Firm/Institution is qualified, permission is granted under this Permit to the Applicant named herein to conduct Survey Work on Tribal Lands. The Permit Holder must abide by all the following conditions.

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Principal Investigator

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Date

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Issuing Officer (THPO Office)

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Date