

WINNEBAGO TRIBAL CODE
TITLE 8

TITLE 8
NATURAL RESOURCES
(Revised January 23, 2025)

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TITLE 8
TABLE OF REVISIONS

The following table is included in this title to show the legislative history for each article and as a guide for determining whether each article properly reflects the current version. This table will be updated as each article is revised.

Pages in bound titles can be inserted and removed when sections are revised on an article-by-article basis. This table should be placed before the Table of Contents in the title.

The “Article” column lists each article number and the “Section” column lists any corresponding sections that have been revised, in sequence. The “Revised Date” column reflects the effective date of the revision (e.g., “6/20/15”). The “Resolution No.” column identifies the resolution approving the revision that was adopted by the Winnebago Tribal Council. If an article is not listed in the table, it has not been revised since the initial adoption of this title of the Tribal Code.

<u>Article</u>	<u>Section</u>	<u>Resolution No.</u>	<u>Revised Date</u>
N/A	Adopting Code	87-77	3/2/87
2	Entire Article Adopted	87-82	3/11/87
1	101, 103-104, 108, 111-114	87-134	8/8/87
1	102	88-12	11/2/87
2	101-102	88-91	9/14/88
3	101	88-91	9/14/88
4	101	88-91	9/14/88
5	107-111	88-91	9/14/88
6	104-111	88-91	9/14/88
8	107-108	88-91	9/14/88
9	101-102, 107-117	88-91	9/14/88
3	104	89-94	6/5/89
4	101-102	89-94	6/5/89
1	108	92-19	1/8/92
1	102-103, 106, 108-110, 113,	93-84	7/6/93
“	115-116	“	“
1	167-178	96-74	7/17/96
8	106, 183	05-02	10/8/04
1	108, 110, 112, 114-115, 117-119,	10-17	11/6/09
“	122-123, 125, 141, 149-150, 153,	“	“
“	162, 165, 167, 171, 176	“	“
2	207, 211	10-17	11/6/09
4	Article Adopted	18-47	03/14/18
4	403, 411	19-45	01/18/19
3	305	19-118	05/23/19
3	Article Adopted	20-136	05/26/20
1	110	22-33	12/15/21
1	123	22-56	1/19/22
3	Article Amended	24-204	09/24/24
2	203, 205-217	25-94	01/23/25

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(Revised May 26, 2020)

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TITLE 8
NATURAL RESOURCES
(Revised November 6, 2009)

ARTICLE 1
WILDLIFE AND PARKS
GENERAL PROVISIONS

8-101	Authority.	8-105	Winnebago Wildlife and Parks
8-102	Policy.		Commission.
8-103	Intent.	8-106	Name.
8-104	Effective Date.		

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.

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.

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

8-109	Regulations and Statutes: Contents.	8-115	Forfeiture.
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8-113	Authority to Enter Private Land.	8-119	Waiver Provision.
8-114	Seizure Without Warrant.		

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.
13. To establish zones designated for hunting, trapping, or fishing under this Code. Such zones may, but need not, have differing license fees, as determined by the Commission. [TCR 87-77, 93-84, 10-17, 22-33]

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.		

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.
 - d. CLASS B-1 licenses to hunt, trap, or fish, shall be issued to Winnebago Tribal members (whether resident or non-resident) for lands east of the Missouri River,
 - e. CLASS B-2 licenses to hunt, trap, or fish, shall be issued to non-Indians for lands east of the Missouri River,
 - f. CLASS B-3 licenses to hunt, trap, or fish shall be issued to non-member Indians for lands east of the Missouri River.
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 and CLASS B-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, 22-56]

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]

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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.
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.		

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.

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.		

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.		
8-169	Administration of Firearms.	8-175	Responsibility of the Chief Administrative Officer.
8-170	Firearms; Record.		
8-171	Initial Qualification Requirements.	8-176	Medical Standards.
8-172	Procedures When a Firearm is Used.	8-177	Misconduct.
8-173	Responsibility of the Senior Conservation Officer.	8-178	Special Permits.

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]

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TITLE 8
ARTICLE 2
WATER MANAGAMENT
(Revised January 23, 2025)

8-201	Purposes.	8-209	Committee Member Provisions.
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8-204	Severability.	8-212	Public Cooperation.
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8-206	Committee Chairperson.	8-214	Inventory Update.
8-207	Committee Meetings.	8-215	Committee and Administrator Responsibilities.
8-208	Duties.		

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 this Article.
3. “Person” includes any individual corporation, association, unit of government, organization, or other legal entity.
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.

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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, 25-94]

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 five members normally serving staggered terms of three years. [TCR 87-82, 25-94]

8-206 Organizational Meeting. The Committee shall hold an organizational meeting annually in November or at the first meeting held following thereafter. A Chairperson and Vice Chairperson shall be elected at the Organizational Meeting. [TCR 25-94]

8-207 Committee Chairperson. The Committee Chairperson shall be in charge of running the meetings of the committee and reporting to the Tribal Council regarding committee actions. [TCR 87-82, 25-94]

8-208 Committee Vice Chairperson. The Committee Vice Chairperson shall be in charge of running meetings in event of Chairperson’s absence. [TCR 25-94]

8-209 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 majority 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. A majority of the number of committee members shall constitute a quorum. A quorum including the Chairperson, or the Vice Chairperson acting in the Chairperson’s absence, must be in attendance at all times for the conduct of business at committee meetings. [TCR 87-82, 10-17, 25-94]

8-210 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 accordance with tribal budget procedures if funds are needed for implementing future water programs. [TCR 87-82, 25-94]

8-211 Committee Member Provisions.

1. 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 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 of committee members, if any, shall be fixed by the Tribal Council.
4. 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.
5. At least one Member of the Committee shall be a member of the Water Spirit Clan of the Winnebago Tribe of Nebraska.
6. One member of the Committee shall be a current member of the Winnebago Tribal Council. [TCR 87-82, 25-94]

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8-212 Listing of Current Uses. The administrator shall by December 31 of each year compile a comprehensive listing of all current uses of reservation waters. [TCR 87-82, 25-94]

8-213 Water Resource Information. The administrator shall by December 31 of each year compile all available information, reports, data, and other documentation regarding the amount, quality, and use of reservation waters. [TCR 87-82, 10-17, 25-94]

8-214 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 this Article. [TCR 87-82, 25-94]

8-215 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, 25-94]

8-216 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, 25-94]

8-217 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, 25-94]

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TITLE 8
ARTICLE 3
HEMP

(Revised September 24, 2024)

8-301	Authority.	8-310	Other License Requirements and Restrictions.
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8-303	Policy and Purpose.	8-312	Reporting and Recordkeeping.
8-304	Jurisdiction.	8-313	Sampling and Testing.
8-305	Definitions.	8-314	Annual Inspections of a Random Hemp Sample.
8-306	Hemp Program.	8-315	Transporting Hemp.
8-307	Hemp Oversight and Licensing Commission.	8-316	Crop Destruction and Remediation.
8-308	Hemp License Applications.	8-317	Penalties.
8-309	Hemp License Application Contents.		

8-301 Authority. The Preamble and Article IV of the Constitution and Bylaws of the Winnebago Tribe of Nebraska (also referred to herein as the “Tribe”) 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, and inspection, as well as enforce compliance with the Tribe’s law and federal law regarding hemp production and hemp products. [TCR 20-136, 24-204]

8-302 Citation. This Article shall be known and may be cited as the “Hemp Code.” [TCR 24-204]

8-303 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 Hemp Code 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;
2. Regulate hemp as an agricultural commodity in compliance with tribal and federal law; and
3. Protect political integrity, economic security, health and welfare, and public safety of the Tribe, its Tribal, and the local communities within its Territory. [TCR 20-136, 24-204]

8-304 Jurisdiction.

1. The Winnebago Tribe of Nebraska’s jurisdiction over hemp production includes all lands within the exterior boundaries of the Winnebago Indian Reservation, and Indian country as defined in 18 U.S.C. § 1151 (a), (b), and (c). The Tribe also has jurisdiction over E-commerce transactions emanating from or to the jurisdiction of the Tribe.
2. Any person who uses land anywhere within the exterior boundaries of the Winnebago Indian Reservation and any person who enters into agreements or understandings with the Tribe or its members and residents by commercial dealings, contracts, leases, licenses, permits, intergovernmental agreements, or other arrangements, commercial or otherwise, shall be deemed to have entered into a consensual relationship with the Tribe or its members subject to the jurisdiction of the Tribe.

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3. The Tribe may not prohibit the transportation or shipment of lawfully produced hemp through its jurisdiction. [TCR 24-204]

8-305 Definitions. The following words have the meanings given below when used in the Hemp Code unless a different meaning is obvious from the context:

1. “Acceptable hemp THC level” means the application of the measurement of uncertainty to the reported total delta-9 tetrahydrocannabinol (“THC”) content concentration level on a dry weight basis that produces a distribution or range that includes 0.3% or less.
2. “Applicant” means the Winnebago Tribe of Nebraska or a person or entity that applies for a License or Permit under the Winnebago Hemp Program.
3. “Cannabis” means the genus of flowering plants in the family Cannabaceae, of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof and, for purposes of this Hemp Code, refers to the plant where the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.
4. “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.
5. “Commercial sale” means the sale of a product in the stream of commerce at retail or wholesale, including sales online.
6. “Commission” means the Winnebago Tribe of Nebraska’s Hemp Oversight and Licensing Commission.
7. “Conviction” means any plea of guilty or nolo contendere, or any finding of guilt, except when the finding of guilt is subsequently overturned on appeal.
8. “Corrective Action Plan” or “CAP” means a plan established by the Tribe to correct a negligent violation, including (a) a date for correcting the negligent violation; (b) a requirement to periodically report to the Tribe regarding compliance with this Hemp Code for at least the next two (2) calendar years; and (c) that the Tribe shall conduct inspections to determine if a CAP has been implemented.
9. “Criminal History Report” means the Federal Bureau of Investigation’s Identity History Summary.
10. “Cultivate” or “cultivating” means planting, watering, growing, and harvesting a hemp plant or crop.
11. “Culpable mental state greater than negligence” means to act intentionally, knowingly, willfully, or recklessly.
12. “Decarboxylation” means the removal or elimination of a carboxyl group from a molecule or organic compound.
13. “Delta-9 tetrahydrocannabinol” or “THC” is the primary psychoactive component of cannabis.
14. “Disposal” means an activity that transitions the non-compliant hemp into a non-retrievable or non-ingestible form. Such activities include plowing, tilling, or disking plant material into the soil; mulching, composting, chopping, or bush mowing plant material into green manure, burning plant material, burying plant material into the earth and covering it with soil.
15. “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.
16. “Farm Service Agency” or “FSA” is an agency within USDA that, among other things, implements agricultural policy.
17. “GPS coordinates” means the latitude and longitude coordinates derived from a global positioning system (“GPS”), a global system of navigational satellites used to determine the precise ground position of a place or object.

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18. “Global Positioning System (“GPS”) coordinates” means latitude and longitude coordinates derived from a global positioning system.
19. “Handling” means possessing or storing hemp plants for any time period on premises owned, operated, or controlled by a Licensee to cultivate or process hemp. Handling also includes possessing or storing hemp plants in a vehicle for any time period other than during its actual transport from the premises of a Licensee to the premises of another Licensee. Handling does not include possessing, storing, or transporting finished hemp products.
20. “Hemp” means the plant *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 total THC concentration of not more than 0.3% on a dry weight basis, or as otherwise defined in federal law.
21. “Hemp product” means a finished product with the acceptable hemp 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.
22. “Key participant” means a person or persons who have a direct or indirect financial interest in the entity producing hemp. A key participant also includes persons in a corporate entity at executive levels including a chief executive officer, chief operating officer, and chief financial officer.
23. “Law enforcement agency” means the Winnebago Tribe of Nebraska Police Department, United States Drug Enforcement Administration (“DEA”), 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.
24. “License” means a valid certificate, in a specified format prescribed by the USDA, issued by the Winnebago Tribe of Nebraska to cultivate, handle, store, process, transport, or market hemp.
25. “Licensed hemp producer” or “Licensee” means the Winnebago Tribe of Nebraska or a person licensed by the Tribe to cultivate hemp within the exterior boundaries of the Winnebago Indian Reservation.
26. “Lot” means a contiguous area containing the same variety or strain of cannabis throughout the area in a field, greenhouse, indoor growing structure, or buildings where hemp will be cultivated, handled, stored, or processed, which can include a field name or building name.
27. “Lot identification” means the unique identifier established by an Applicant for each unique GPS coordinates where hemp will be cultivated, handled, stored, or processed, which can include a field name or building name.
28. “Measurement of Uncertainty (“MU”)” means the parameter associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.
29. “Negligence” means the failure to exercise the level of care that a reasonably prudent person would exercise in complying with this Hemp Code.
30. “Permit” means a Tribally issued certificate that authorizes a Licensee to plant, cultivate, handle, process, or store hemp, any part of hemp, or hemp products in a specifically described location.
31. “Person” means an individual who is an enrolled member of the Winnebago Tribe of Nebraska or a partnership, corporation, limited liability company, association, postsecondary institution, or other legal entity that is at least 51% owned by a member or members of the Winnebago Tribe of Nebraska, or by the Winnebago Tribe of Nebraska.
32. “Plan” is the set of criteria under which the Tribe monitors and regulates hemp production.
33. “Process” or “processing” means to convert any portion of a hemp crop into a hemp ingredient, hemp product, or other marketable form.
34. “Produce” is to grow hemp plants for the market or cultivation for the market in the United States.
35. “Remediation” refers to the process of rendering non-compliant cannabis into a compliant form. Remediation can occur by removing and destroying flower material while retaining stalk, stems,

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- leaf material, and seeds. Remediation can also occur by shredding the entire plant into a biomass-like material.
36. “Reservation” means the reservation of the Winnebago Tribe of Nebraska.
 37. “Testing facility” means a DEA-registered laboratory that must include a validated testing methodology that uses postdecarboxylation, including 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.
 38. “THC” means delta-9 tetrahydrocannabinol concentration.
 39. “Tribal Court” means the courts of the Winnebago Tribe of Nebraska as established pursuant to the Tribe’s Constitution and Bylaws and Tribal Code.
 40. “Tribal Police” shall mean the Winnebago Tribe of Nebraska Tribal Police Department.
 41. “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.
 42. “Winnebago Hemp Program” or “Hemp Program” means the Winnebago Tribe of Nebraska office, program, agency, commission, or department responsible for the oversight and implementation of this Hemp Code as designated by the Winnebago Tribal Council. [TCR 19-118, 20-136, 24-204]

8-306 Hemp Program. The Tribe hereby establishes the Winnebago 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 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. [TCR 20-136, 24-204]

8-307 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 8, Article 3, and such other powers as are now or hereafter determined by law:

1. Appointment. The Commission shall consist of five (5) members. The Tribal Council shall appoint a chairperson and a vice-chairperson. A minimum of three (3) members of this Commission shall be members of the Tribe. All Commission members shall be over twenty-one (21) years of age.
2. Terms. The initial members of the Commission: the chairperson shall serve for two (2) years and the vice-chairperson shall serve for one (1) year. Each of the three (3) remaining members shall be appointed to serve, respectively, one (1), two (2), and three (3) year terms. All subsequent terms shall be three (3) years.
3. Vacancies. 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. Chairperson Authority. The Commission chairperson 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. The decision on whether to retain or terminate a member of the Commission shall rest solely with the Tribal Council.
5. Qualifications. No individual may be appointed to serve on the Commission who:

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- 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 or remediated pursuant to this Hemp Code or federal law;
 - l. Adopt policies to support the enforcement of this Hemp Code and applicable federal law and regulations;
 - m. Hire adequate staff and provide training and equipment to fulfill its responsibilities under Hemp Code; and
7. Privileges and Immunities. When acting under the color of Tribal authority, the Commission shall enjoy all the privileges and immunities of the Tribe, including sovereign immunity from suits in the tribal, state, or federal courts.
- a. The Commission shall have no authority to waive the sovereign immunity of the Tribe or any other Tribal entity;
 - b. Nothing in the Hemp Code shall be deemed or construed to be a waiver of sovereign immunity from suit;
 - c. Nothing in the Hemp Code 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
 - d. 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.
[TCR 20-136, 24-204]

8-308 Hemp License Applications.

1. An Applicant who wishes to cultivate, process, handle, transport, or store hemp within the Tribe'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 provides 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 (5) 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.

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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. [TCR 20-136, 24-204]

8-309 Hemp License Application Contents.

1. License applications shall include at a minimum:
 - a. Applicant's full name, residential address, telephone number, and e-mail address, if available;
 - b. If Applicant is a business entity, the full legal name of the business, employer identification number ("EIN") of the business, the principal business location address, the key participants, the full name of the Applicant with signature authority, title, and e-mail address;
 - c. Documentation showing a valid ownership, tenancy, or other legal interest in the proposed location;
 - d. Street address, legal description, and GPS coordinates for each lot, greenhouse, or building where hemp will be cultivated, handled, processed, or stored;
 - e. Information regarding any other hemp cultivating 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; and
 - g. Business and operations plan that includes:
 - i. Proposed acreage or indoor square footage to be planted or used for processing;
 - ii. Description of facility proposed and the number of employees;
 - iii. Name of proposed facility manager;
 - iv. Security plan with security system(s) and lighting plan showing outside lighting, and centrally alarmed and monitored security system service agreements;
 - v. List of pesticides and chemicals proposed for use;
 - vi. 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 location;
 - vii. Disposal plan of hemp and related by-products;
 - viii. Statement of previous farming experience; and
 - ix. 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 application is not corrected or supplemented within thirty (30) calendar days after the Commission's notification to the Applicant, the Commission shall deny the application.
3. The Commission shall notify Applicants by letter or e-mail 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.
4. A License is valid for one (1) year from the date of issuance by the Winnebago Hemp Program. Licenses are non-transferable and are not permitted for resale.
5. A Licensee seeking to renew their License upon expiration must submit a new License application and undergo a new nationwide criminal background check. [TCR 20-136, 24-204]

8-310 Other Licensing Requirements and Restrictions.

1. An individual Licensee, or key participant if the Licensee is a business, must be (a) at least nineteen (19) years of age; and (2) an enrolled member of the Winnebago Tribe of Nebraska.
2. Licensees must comply with all applicable requirements under the Winnebago Tribe of Nebraska Tribal Code, including, but not limited to, business registration, taxation, and zoning laws.

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3. Licensees shall not engage in any activity permitted under this Hemp Code within 100 feet of a school or other location primarily populated by minors, except as is necessary for the transportation of hemp or hemp products within the boundaries of the Reservation.
4. A Licensee may not, in connection with their License, employ or partner with any person who has been convicted of a felony related to a controlled substance under tribal, state, or federal law, or who would otherwise be ineligible from participating in the Winnebago Hemp Program in accordance with this Plan.
5. Any individual Licensee, including a key participant if the Licensee is a business, with a state or federal felony conviction relating to a controlled substance is subject to a ten (10) year ineligibility restriction on receiving a License under this Hemp Code from the date of the conviction. An exception applies to a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018, and whose conviction also occurred before that date. Any producer growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by 7 U.S.C. § 5940 before October 31, 2019, shall be exempted from this section. [TCR 24-204]

8-311 Lot Permits.

1. As a component of the License application, each Applicant shall submit a site registration application for a Permit. A Permit is required for each lot where hemp is cultivated, handled, processed, or stored. The Commission shall adopt a uniform permitting application and process for approval or denial of location Permits. Permits may only be issued to Licensees. No Licensee shall have the expectation of privacy with respect to any location site that is issued a Permit. Licensees, whether present or not, shall allow representatives of the Commission, Tribal Police, and/or federal law enforcement agencies access to the location site with or without cause and with or without advance notice. The Hemp Program may collect fees that are reasonable to process location Permit applications and location site modifications. Non-payment of fees shall result in an application for a Permit to be denied.
2. The site registration application shall include, at a minimum:
 - a. The street address and legal description of each lot, greenhouse, or building where hemp is produced;
 - b. If hemp is produced or is intended to be produced in a lot:
 - i. GPS coordinates at the approximate center of the lot;
 - ii. Number of square feet or acres of each lot;
 - iii. And a map of the production area showing clear boundaries of the lot.
 - c. If hemp is produced or is intended to be produced in a greenhouse or other building:
 - i. GPS coordinates at the approximate center of the greenhouse or building;
 - ii. Approximate dimension or square feet of the greenhouse or building; and
 - iii. A map of the production area showing clear boundaries of the greenhouse or building.
3. A Permit is valid for one (1) year from the date of issuance by the Hemp Program but shall expire upon the date of the Licensee's License if terminated or not renewed. Permits are non-transferable and are not permitted for resale. [TCR 20-136, 24-204]

8-312 Reporting and Recordkeeping.

1. The Hemp Program's reporting and record retention requirements are, at a minimum, as follows:
 - a. Retain information about locations including the legal description, and lot identification information for every location where the Winnebago Hemp Program has approved hemp to be cultivated for a period of three (3) years;

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- b. Retain information about approved cultivating, processing, handling, and storage locations to share with the Tribe, Tribal Police, and other law enforcement agencies whose representatives request registered lot information, including the legal descriptions and GPS coordinates for a period of three (3) years;
 - c. Retain all applications for licensure, grants and denials of Licenses, receipt of fees, distribution of fees, and revenues to the Tribe for a period of three (3) years;
 - d. Submit a quarterly report to the Tribal Council summarizing the Winnebago Hemp Program's official actions, activities, investigative reports, and reports received about any hemp business; and
 - e. Submit to the USDA, by the first of each month, a report providing the contact information, and the status of the License or other authorization issued for each producer covered under this Hemp Code.
2. Reports required of the Hemp Program shall be submitted to the USDA via its online information sharing system, Hemp eManagement Platform ("HeMP"), or other such system as required by the USDA. Reports required of Licensees to the FSA shall be submitted to and in a form prescribed by the applicable local office, and to the Winnebago Hemp Program in a form and method prescribed by the Commission.
 3. Not more than thirty (30) days after receiving and compiling the following information, the Hemp Program shall submit to the Agricultural Marketing Service ("AMS")/USDA by the first of each month the Tribal Hemp Production Report providing the contact information and the status of the License or other authorization issued for each Licensee, whether an individual or an entity:
 - a. The Licensee's full legal (and common) name;
 - b. The Licensee's telephone number, e-mail address, residential or business address, mailing address, or another form of contact information;
 - c. The lot identification for each field, facility, or other place where hemp is licensed to be cultivated;
 - d. The License number issued by the Hemp Program;
 - e. Whether the Licensee's License is in good standing; and
 - f. The Licensee's EIN if Licensee is a business.
 4. No later than December 15 of each year, the Hemp Program shall submit to the AMS/USDA an annual report containing the following information:
 - a. Total planted acreage;
 - b. Total harvested acreage; and
 - c. Total acreage disposed of and remediated.
 5. A Licensee shall report their hemp crop acreage to the FSA. The Licensee must provide, at a minimum:
 - a. Street address and GPS coordinates for each lot or greenhouse where hemp will be produced;
 - b. Acreage and indoor square footage dedicated to the production of hemp; and
 - c. License identification. The Licensee will submit the FSA 578 form to the Winnebago Hemp Program within thirty (30) days of submission to the FSA.
 6. A Licensee shall submit a complete and current Planting Report form to the Winnebago Hemp Program within fifteen (15) days after every planting, including replanting, of seeds or propagules in an outdoor lot. Each Report shall identify:
 - a. The correct variety name of seeds as designated upon approval of an acquisition request or as approved by the Winnebago Hemp Program;
 - b. The Lot identification as listed in the Licensee's application; and
 - c. The primary intended use of the harvest for each planting.
 7. 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 been and shall not be planted at that location.

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8. A Licensee shall submit a complete and current Greenhouse/Indoor Planting Report form to the Hemp Program within fifteen (15) days after establishing plants at an indoor location. Each Report shall identify:
 - a. The correct variety name of seeds as designated upon approval of an acquisition request or as approved by the Winnebago Hemp Program;
 - b. The lot identification as listed in the Licensee's application; and
 - c. The primary intended use of the harvest for each planting.
9. In addition to the initial Greenhouse/Indoor Planting Report, a Licensee with an approved greenhouse or indoor growing location Permit shall submit quarterly reports for each lot identification to the Winnebago Hemp Program. These reports are due no later than March 31, June 30, September 30, and December 31. All required forms, reports, and records submitted to the Tribe shall be kept for a minimum of three (3) calendar years. Licensees and the Winnebago Hemp Program are each responsible for storing such records.
10. A Licensee shall submit a complete and current Harvest/Destruction Report form to the Hemp Program at least thirty (30) days prior to the intended harvest date or intended destruction date of a failed crop. The harvest must occur within thirty (30) days or a new compliance sample must be pulled and tested.
11. For the purpose of information sharing with law enforcement, the Winnebago Hemp Program shall collect the following information to provide to the Secretary of Agriculture:
 - a. The contact information for each Licensee;
 - b. A legal description of the land on which hemp is cultivated by each Licensee; and
 - c. For each Licensee, the status of their License or other required authorization from the Tribe; and
 - d. Any changes to the status. [TCR 20-136, 24-204]

8-313 Sampling and Testing.

1. Hemp cultivated from each registered lot must be tested for THC concentration prior to harvest by a DEA-registered testing facility at the Licensee's expense. A Licensee shall not remove a harvest from a lot that has not been sampled and tested for compliance with the allowable THC concentration levels on a dry weight basis.
2. A Licensee must arrange for a trained sampling agent to collect samples from the top 5-8 inches of flower material from the cannabis plants and ensure the sampling of each lot occurs no more than thirty (30) days prior to harvest for the purpose of determining that the harvest does not exceed allowable THC concentration levels on a dry weight basis.
3. Except for samples collected by the Hemp Program for auditing and inspection purposes, all samples collected to determine compliance with this Hemp Code shall be collected by a trained sampling agent.
4. Sampling agents will be trained using the USDA's Sampling Agent Training course and Refresher course or through a training program created by the Hemp Program. A list of trained sampling agents will be made available to Licensees by email or other notification. Sampling agents shall have complete and unrestricted access to any lot, registered land area, or facility used for hemp production and handling during normal business hours.
5. The USDA's Sampling Guidelines for hemp Issued January 15, 2021, are incorporated herein by reference and shall act as the sampling protocols for trained sampling agents under this Hemp Code. The USDA's Guidelines for Testing issued January 15, 2021, are incorporated herein by reference and shall act as the testing protocols under this Hemp Code.
6. The method used for sampling must ensure that the flower material sample is collected that represents a homogeneous composition of the lot. Samples of hemp plant material from one lot shall not be commingled with hemp plant material from other lots. During a scheduled sample

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- collection, the Licensee or an authorized representative of the Licensee shall be present at the registered lot.
7. Compliance testing for hemp cultivated under this Hemp Code shall be conducted by testing facilities registered by the DEA and may also have an ISO/IEC 17025 accreditation, the standard published by the International Organization for Standardization. The testing procedure must include a validated testing methodology that uses postdecarboxylation. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (“THC-A”) in hemp into THC and the test result measures the total available THC derived from the sum of the THC and THC-A content. Testing methodologies include gas or liquid chromatography with detection. The total THC concentration level shall be determined and reported on a dry-weight basis.
 8. The Commission shall create and maintain a list of approved testing facilities.
 9. The test results shall identify the lot identification and be certified directly to the Winnebago Hemp Program 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. If a laboratory consistently fails to provide compliance testing results to the USDA or the Hemp Program, Licensees will be instructed that compliance tests will no longer be accepted from that laboratory under the Hemp Program. For each sample tested pursuant to this Hemp Code, the Licensee shall obtain a certificate of analysis from a testing facility that includes, at a minimum:
 - a. License number of the Licensee;
 - b. Full legal name of the Licensee;
 - c. Address of the Licensee;
 - d. Lot identification number for the sample;
 - e. Information identifying the hemp as a sample tested by the laboratory and provided by the Licensee;
 - f. Name of the laboratory;
 - g. DEA registration number of the laboratory for testing;
 - h. The report date and dates the hemp was sampled, and tested, and the testing methodology used to analyze the sample;
 - i. The THC concentration levels contained in the sample;
 - j. Identification of a pre-harvest or remediation test; and
 - k. A statement indicating whether the sample contained a THC concentration level more than the acceptable hemp THC levels, including MU.
 10. The Hemp Program must promptly notify the USDA, either via HeMP or 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.
[TCR 20-136, 24-204]

8-314 Annual Inspections of a Random Hemp Sample.

1. The Tribal Police and the Winnebago Hemp Program 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 Hemp Program’s inspectors for testing to determine THC concentration levels in hemp or hemp products or any other Tribally defined purpose. Inspections may be conducted at any time during regular business hours. Inspectors shall be granted unrestricted access to the site.
2. All samples collected by the Hemp Program’s inspectors shall become property of the Tribe and no compensation shall be owed by the Tribe for such samples. The Winnebago Hemp Program shall keep test results for all hemp and hemp products tested for a minimum of three (3) years. Testing of hemp shall be conducted pursuant to standards adopted by the Hemp Program using post-decarboxylation for the testing of total delta-9 THC concentration.

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3. The Hemp Program will conduct at least one (1) random inspection per year but may conduct additional inspections based on the number of Licensees. The random inspection may be an onsite inspection of Permitted locations, desk audit inspection of records, or upon a report of hemp being cultivated without a license or permit. [TCR 24-204]

8-315 Transporting Hemp. The following requirements apply to the transportation of hemp within or through the exterior boundaries of the Reservation:

1. Except as provided in subsection (c) of this section, any Licensee, USDA-licensed hemp producer, or state-program-licensed hemp producer transporting hemp shall carry with the hemp being transported a copy of the License, USDA license, or state program license under which the hemp was cultivated and a copy of the test results pertaining to each lot of hemp being transported.
2. Licensees must provide no less than one (1) hour's written notice to the Hemp Program of the Licensee's intended transportation of hemp within or through the Reservation. The Hemp Program may permit a shorter time frame for providing such notice on a case-by-case basis.
3. Licensees shall maintain a record of shipments of hemp shipped from or received by any Licensee, USDA-licensed hemp producer, or state-program-licensed hemp producer. Such record shall, for each shipment of hemp, indicate the date of shipment, identify the point of origin and destination, identify the name of the person sending and receiving the shipment, and include the vehicle identification number of the vehicle transporting the hemp.
4. Licensees shall not be required to carry a copy of the test results relating to such hemp as provided in subsection (a) of this section if such Licensee carries with the hemp being transported a copy of the License and is transporting:
 - a. Hemp between two permitted lots under the Licensee's License;
 - b. Samples of hemp for testing to determine the THC level; or
 - c. Live hemp plants to a permitted lot under the Licensee's License prior to cultivating such hemp plants.
5. Any person who is carrying or transporting hemp who is not a Licensee, USDA-licensed hemp producer, or state-program-licensed hemp producer shall only carry or transport hemp if such hemp meets the following requirements:
 - a. The hemp is carried or transported with a bill of lading stating the owner of the hemp, the point of origin of the hemp, and the destination of the hemp;
 - b. The hemp is carried or transported with a copy of the valid License, USDA license, or state program license under which the hemp was cultivated;
 - c. The hemp is carried or transported with a copy of the test results pertaining to each lot of hemp being transported; and
 - d. The hemp is not unloaded or in any way removed from the vehicle transporting such hemp unless authorized by Tribal Police enforcement.
6. No person shall transport or carry hemp within or through the exterior boundaries of the Reservation concurrently with any other plant material that is not hemp. [TCR 24-204]

8-316 Crop Destruction and Remediation.

1. Hemp that contains a higher THC concentration than the acceptable hemp THC level shall be subject to disposal or remediation by the Licensee in accordance with this Hemp Code and all applicable federal, tribal, state, and local laws, regulations, rules, and other requirements. All plants in the lot shall either be remediated to bring the lot under the acceptable hemp THC concentration level, or all plants shall be disposed of in a manner that renders it non-retrievable. Lots tested and not certified by the DEA-registered laboratory at or below the acceptable hemp THC level may not be further handled, processed, or enter the stream of commerce.

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2. If hemp contains a higher THC concentration level than the acceptable hemp THC level, the harvest shall be promptly disposed of or remediated by the Licensee at the growing location.
3. Disposal of non-compliant hemp plants may be accomplished by performing any one or combination of the following on-farm activities:
 - a. Plowing under;
 - b. Mulching/composting;
 - c. Disking;
 - d. Bush mowing;
 - e. Deep burial; and
 - f. And burning.
4. Remediation of non-compliant hemp plants may be accomplished by:
 - a. Separating and destroying non-compliant flowers, while retaining stalks, leaves, and seeds;
 - i. Under this method, Material retained after floral destruction must be retested for compliance. Seeds saved from remediation shall not be used for propagative purposes; or
 - b. Shredding the entire hemp plant to create “biomass”;
 - i. Under this method, all flowers, buds, trichomes, leaves, stalks, seeds, and all plant parts from a lot should be chopped or shredded in such a way as to create a homogenous, uniform blend of the lot called “biomass.” Lots should be kept separate and not be combined during this process. This biomass shall be resampled and retested to ensure the biomass material tests within an acceptable THC concentration level before it may enter the stream of commerce in accordance with §990.3(d) and §990.27(c). If the biomass tests above the acceptable THC concentration level is non-compliant hemp and must be destroyed through one of the disposal options provided herein. Seeds saved from remediation shall not be used for propagative purposes.
5. Licensees shall have fourteen (14) calendar days from the date of notification of test results higher than the acceptable hemp THC level to contact the Hemp Program in writing and apply for retesting or propose disposal or remediation.
6. All non-compliant hemp plant material and hemp products derived therefrom must be remediated or disposed of in a manner approved and verified by the Tribe and in accordance with federal law. Verification may include in-person disposal verification by a law enforcement agency, Tribal representatives, the Hemp Program staff, or alternative requirements that direct Licensees to provide pictures, videos, or other proof that disposal occurred successfully.
7. Hemp subject to disposal or remediation shall not be removed from the location. Except for hemp seeds rendered non-viable, all hemp subject to disposal or remediation shall not be added to or processed into any consumable product.
8. Any Licensee that fails to submit a Crop Destruction Report shall have its License revoked, shall be banned from participating in the Winnebago Hemp Program in the future, and shall be subject to a civil penalty of up to \$2,500.
9. A Licensee, whose hemp must be destroyed, is required to submit a Crop Destruction Report at least fifteen (15) days prior to the proposed crop destruction. The Crop Destruction Report shall contain the following:
 - a. Lot identification 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

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- h. Licensee's signature.
- 10. The Commission shall promptly notify the USDA via HeMP of any occurrence of cannabis plants or plant material that do not meet the definition of hemp and include test results for the same. The Winnebago Hemp Program will save records demonstrating the appropriate disposal of all of those plants and materials in the lot for not less than three (3) years.
- 11. Test results from informal testing conducted throughout the growing season shall not be reported to the USDA. [TCR 20-136, 24-204]

8-317 Penalties. Anyone who violates this Hemp Code, 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 a 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 THC level above 1% 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. Negligent Violations.
 - a. A negligent violation includes instances where a Licensee:
 - i. Fails to provide a legal description of the land on which the Licensee cultivates hemp;
 - ii. Fails to obtain a License or other required authorization from the Tribe, as applicable; or
 - iii. Produces cannabis with a THC level exceeding 1% on a dry weight basis and reasonable efforts have not been made to grow cannabis that does not have a total THC level of 1%.
 - b. A Licensee that negligently violates this Hemp Code shall not, as a result of that violation, be subject to any criminal enforcement action by the federal or Tribal government. A Licensee that negligently violates this Hemp Code three (3) times in a five (5) year period shall be ineligible to produce hemp for a period of five (5) years beginning on the date of the third violation. The Hemp Program shall conduct an inspection to determine if the CAP has been implemented as submitted. A Licensee shall not receive more than one (1) negligent violation per growing season.
- 5. Corrective Action Plan. A Licensee who is determined to have negligently violated the requirements of this Hemp Code shall be subject to a 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

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- 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 (2) years from the date of the Corrective Action Plan.
6. 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 Hemp Code, then the Commission may assess a monetary civil penalty not to exceed \$2,500 per violation.
7. Forfeiture. Any hemp on the 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.
8. Mandatory reporting. Any person who is found by the Commission to have violated any part of this Hemp Code governing the participation in the Hemp Program with a culpable mental state greater than negligence shall be reported to the Tribal Police, the General Counsel, and federal law enforcement agencies, including the United States Attorney General.
[TCR 20-136, 24-204]

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TITLE 8
ARTICLE 4
CULTURAL RESOURCE PROTECTION CODE
(Adopted March 14, 2018)

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.

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. [TCR 18-47]

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. [TCR 18-47]

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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. “Contractor” means any company employed to carry out ground disturbing work on the Winnebago Indian Reservation.
7. “Contractor Agent” means the individual designated by the Contractor to act on behalf of the Contractor and to as the point of contact with the Winnebago Historic Preservation Office.
8. “Culture” means the traditions, beliefs, practices, lifestyle, arts, oral/documented history and social institutions of the Winnebago Tribe of Nebraska.
9. “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(l)(1);
 - f. Named plant species identified as possessing spiritual and/or medicinal qualities as defined by the Tribe.
10. “Effect” means alteration to the characteristics of a historic property qualifying it for inclusion in or eligibility for the National Register.
11. “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.
12. “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.
13. “Human skeletal remains” means any part of the human body in any state of decomposition.

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14. “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.
15. “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.
16. “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.
17. “Native American” means of, or relating to, a tribe, people, or culture that is indigenous to the United States.
18. “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
19. “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.
20. “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.
21. “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.
22. “Person” means any individual, partnership, association, corporation, and any other entity composed of individuals, and federal, tribal, and state governmental entities or agencies.
23. “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.
24. “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.
25. “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).
26. “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

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- 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.
27. “THPO” means the Tribe’s Tribal Historical Preservation Officer.
28. “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.
29. “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).
30. “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.
31. “Tribe” means the Winnebago Tribe of Nebraska.
32. “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.
33. “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. [TCR 18-47, 19-45]

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;

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- 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. [TCR 18-47]

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

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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.
[TCR 18-47]

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.
[TCR 18-47]

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:

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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.
[TCR 18-47]

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. [TCR 18-47]

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.
[TCR 18-47]

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.

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[TCR 18-47]

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 or Contractor Agent (and only the Principal Investigator or Contractor Agent) 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 or Contractor Agent.
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 or Contractor Agent will need to carry the permit on them at all times during fieldwork. **Failure to obtain a permit before beginning work 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. [TCR 18-47, 19-45]

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. [TCR 18-47]