TITLE 14. GENERAL PROVISIONS

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TITLE 14. NATURAL RESOURCES

ARTICLE I

GENERAL PROVISIONS

[NOTE: Except as otherwise noted, the provisions of Article I, Title 14 were enacted on December 3, 2001 by Ord. No. 2001-2, adopted by Res. No. 9-2001.]

CHAPTER 1. IN GENERAL

Sec. 14-1101. Authority.

(a) The Tribe has the inherent sovereign power to enact laws to further the welfare of its members and others within its territory.

(b) The Tribal Council has been vested with the express authority to protect and preserve the property and natural resources of the Tribe, to encourage and foster the trade, tradition and culture of the Tribe, and to preserve order on the Settlement.

Sec. 14-1102. Jurisdiction.

Except as otherwise provided within any article, chapter, or section, this Title shall apply to all persons located on the Settlement or otherwise subject to the jurisdiction of the Tribe by virtue of its inherent sovereign authority or as established by other applicable laws.

CHAPTER 2. CONSTRUCTION OF TITLE

Sec. 14-1201. Use of Language From Other Laws.

Inclusion of or reference to language, definitions, procedures, or other statutory or administrative provisions of other jurisdictions in this Title shall not be deemed an adoption of that law by the Sac & Fox Tribe of the Mississippi in Iowa and shall not be deemed an action deferring to or consenting to such other jurisdiction by the Sac & Fox Tribe of the Mississippi in Iowa.

Sec. 14-1202. Severability.

If any article, chapter, section or provision of this Title or amendment made by this Title is held invalid, the remaining articles, chapters, sections or provisions of this Title and amendments made by this Title shall continue in full force and effect.

Sec. 14-1203. Sovereign Immunity.

Unless expressly provided otherwise, nothing in this Title shall be construed as limiting, waiving or abrogating the sovereignty or the sovereign immunity of the Sac & Fox Tribe of the Mississippi in Iowa or any of its agencies, departments, enterprises, agents, officials or employees.

TITLE 14. NATURAL RESOURCES

ARTICLE II

NATURAL RESOURCES DEPARTMENT

[NOTE: Except as otherwise noted, the provisions of Article II, Title 14 were enacted on December 3, 2001 by Ord. No. 2001-2, adopted by Res. No. 9-2001.]

CHAPTER 1. IN GENERAL

Sec. 14-2101. Definitions.

Unless the context requires otherwise, as used in this Article:

(a) "Conservation" means the protection and management of natural resources in a manner intended to sustain such natural resources.

(b) "Department" means the Sac & Fox Tribe of the Mississippi in Iowa Natural Resources Department.

(c) "Director" means the Director of the Department.

CHAPTER 2. DEPARTMENT OF NATURAL RESOURCES

Sec. 14-2201. Establishment.

(a) Pursuant to Article X, Section 1(q) of the Constitution, there is hereby established a department of natural resources to be known as the Sac & Fox Tribe of the Mississippi in Iowa Natural Resources Department, as a subordinate agency of the Tribe, delegated the powers, duties, and responsibilities of the Tribal Council as set forth herein and as otherwise provided by the laws of the Tribe.

(b) The Department shall consist of a Director and such other personnel and employees as may be required.

Sec. 14-2202. General Authority.

(a) The Department shall be responsible for the management, protection, and conservation of forests and grasslands, energy, fish, wildlife, environment, land, water, and all other natural resources of the Tribe.

(b) The Department shall have the following powers, duties, and responsibilities:

(1) To collect, classify, and preserve all statistics, data, and information that in its opinion tend to promote the objects of the Department and any law it administers;

(2) To conduct research in improved conservation methods;

(3) To prepare, maintain, and keep up-to-date a comprehensive plan for the development and conservation of the natural resources of the Tribe;

(4) To provide for the protection against fire and other destructive agencies on natural resources of the Settlement; and

(5) To administer any other laws it is charged with administering.

Sec. 14-2203. Intergovernmental Agreements.

The Director or his designee is authorized to enter into negotiations with other jurisdictions for agreements relating to the general authority and responsibilities of the Department. Any such agreement shall not be effective unless and until approved by the Tribal Council.

Sec. 14-2204. Organization.

(a) The Department shall oversee such other commissions and agencies in accordance with the laws of the Tribe, as may from time to time, be placed within or under the Department.

(b) The Director shall be responsible for establishing an organizational structure for the Department which shall include a chain of command and a description of the duties and responsibilities for each position and employee within the Department.

Sec. 14-2205. Director; Duties and Responsibilities.

(a) The Tribal Council shall appoint a Director upon such terms and conditions of appointment as they shall direct, who shall be the administrative head of the Department.. The position of the Director shall be deemed a nontenured policymaking and advisory position. In addition to any other qualifications set by the Tribal Council, the Director shall be knowledgeable in the general field of natural resources management and environmental protection.

(b) The Director shall designate another to perform the functions of the Director in his absence.

(c) When the Tribal Council is not in session, the Director and, in his absence, his designee, shall be under the direction of the Chairman of the Tribal Council, or his designee, who shall carry out the policies and mandates of the Tribal Council. All such actions of the Tribal Chairman, or his designee, shall be subject to subsequent action by the Tribal Council.

(d) The duties and responsibilities of the Director shall be as follows:

(1) To be responsible for and have charge over all natural resources functions on the Settlement;

(2) To hire personnel and employees of the Department, subject to appropriations;

(3) To discipline and dismiss personnel and employees of the Department in accordance with the personnel rules and regulations applicable to employees of the Tribe;

(4) To supervise and direct the operation of the Department, its personnel, and employees;

(5) Provide overall supervision, direction, and coordination of functions to be administered by commissions and agencies within or under the Department, in accordance with the laws of the Tribe;

(6) Annually compile a comprehensive program budget which reflects all fiscal matters related to the operation of the Department and each commission, agency, program, and activity in the Department;

(7) To report quarterly to the Tribal Council on all Department activities, including present, proposed, and future plans, projects, and programs;

(8) To adopt rules and regulations as provided herein;

(9) To act as liaison to other natural resources agencies;

(10) To make recommendations to the Tribal Council for amendments and additions to this Title and other laws of the Tribe related to natural resources or otherwise related to the functions of the Department;

(11) To consult, as necessary, with private groups or agencies, including commissions and agencies within and under the Department, concerning the establishment of a natural resources conservation program which has sound biological, ecological, environmental and economic bases, subject to Section 14-2203;

(12) To make recommendations to the Tribal Council on matters concerning funding, expenditures, and disbursements;

(13) To perform such other conservation and natural resources related activities as the Tribal Council may, from time to time, direct; and

(14) To delegate his duties, responsibilities and authority to subordinate personnel and employees of the Department *provided* the Director shall always maintain the primary responsibility for the operations of the Department.

Sec. 14-2206. Rules and Regulations.

(a) The Director shall promulgate rules and regulations governing the operation of the Department and the conduct of personnel and employees of the Department subject to approval of the Tribal Council.

(b) The Department is authorized, from time to time, to issue such rules and regulations as are deemed necessary to carry out the provisions of this Article and any other law administered by the Department, subject to the approval of the Resources Committee of the Tribal Council.

Sec. 14-2207. Appropriations.

(a) The Tribal Council shall appropriate and authorize the expenditure of Tribal funds for the operation of the Department. The amounts to be appropriated shall be consistent with the needs of the Department for its operation and each commission, agency, program, and activity in the Department as determined by the Tribal Council.

(b) To assist the Tribal Council in making such appropriations, the Director shall submit proposed budgets and reports of expenses and expenditures to the Tribal Council, at such intervals and in such form as may be prescribed by the Tribal Council. Such proposed budgets and reports of expenses and expenditures shall include each commission and agency within or under the Department, broken down by commission and agency.

CHAPTER 3. PROHIBITION ON THE DISCHARGE OF ANY POLLUTANT INTO WATERS WITHIN THE JURISDICTION OF THE TRIBE

Sec. 14-2301. Findings and Declaration.

(a) It wishes to eliminate all discharges of pollutants into waters of the Sac & Fox Tribe of the Mississippi in Iowa.

(b) Elimination of all discharges of pollutants into waters of the Sac & Fox Settlement is necessary at this time in order to maintain water quality for consumption and other domestic and commercial purposes by residences and businesses of the Sac & Fox Settlement.

(c) This Chapter 3 is adopted as an emergency interim measure to maintain the quality of the Sac & Fox Settlement waters until such time as the Sac & Fox Tribal Council can enact a comprehensive water law regulating all aspects of water quality and the discharge of pollutants on the Sac & Fox Settlement.

Sec. 14-2302. Prohibited Discharges.

No person shall discharge any pollutant into the waters of the Sac & Fox Settlement.

Sec. 14-2303 Definitions.

For the purposes of this Chapter 3, the following words shall have the following meanings:

(a) "Council" shall mean the Sac & Fox Tribal Council of the Sac & Fox Tribe of the Mississippi in Iowa.

(b) "Person" shall mean any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, the United States, County, City, District, or other political subdivision of any state or any other group or combination acting as a unit.

(c) "Pollutant" means any substance that will alter the quality of the waters of the Sac & Fox Settlement.

(d) "Quality of the water or water" means any chemical, physical, biological, bacteriological, radiological and other properties and characteristics of waters which affects its use.

(e) "Settlement" means all land, air, and water located within the exterior boundaries of the Sac & Fox Tribe of the Mississippi in Iowa or held in trust by the United States for the benefit of the Sac & Fox Tribe of the Mississippi in Iowa.

(f) "Water or waters" means any water, surface or underground located on or running

through the Settlement.

Sec. 14-2304. Civil Penalty.

Any person discharging any pollutant into the waters of the Sac & Fox Settlement shall pay a civil fine in any amount not to exceed one thousand dollars ($1,000) for each day in which the violation occurs. The civil fine required by this section shall be imposed by any court of competent jurisdiction in accordance with Sections 14-2306 and 14-2307 of this Chapter 3.

Sec. 14-2305. Clean Up and Abatement.

Any person that discharges any pollutant into the waters of the Sac & Fox Settlement shall immediately, but in any case not less than twenty-four (24) hours from the time of the discharge notify the Natural Resources Department of the Tribe of said discharge and shall fully disclose to the Tribal Council any and all information required by the Natural Resources Department. Any person who discharges any pollutant into the water of the Sac & Fox Settlement shall be liable for any and all costs associated with or necessary to clean up, abate or remove any pollutants from the waters of the Sac & Fox Settlement and restore the quality of the waters of the Sac & Fox Settlement to their condition as they existed-immediately prior to the discharge.

Sec. 14-2306. Court Action and Injunctions.

Upon failure of any person to comply with any of the provision of this Chapter, the Tribal Council, by and through its attorney, shall petition a court of competent jurisdiction for the issuance of an injunction requiring such a person to comply therewith, In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, and to levy such fines in accordance with Section 14-2304 of this Chapter 3, as the facts may warrant.

Sec. 14-2307. Emergency Enforcement.

Notwithstanding any other provisions of this Chapter, the Tribal Council, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of person or to the welfare persons where such endangerment is to the livelihood of such persons, may bring suit on behalf of the Tribe in any court of competent jurisdiction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contribution to such pollution or to take such other action as may be necessary.

Sec. 14-2308. Effective Date.

This Chapter shall be effective as of March 5, 2008.

[Note: This chapter was amended on March 5, 2008 by Tribal Resolution No. 5-2008]

TITLE 14. NATURAL RESOURCES

ARTICLE III

FISH AND GAME

[NOTE: Except as otherwise noted, the provisions of Article III, Title 14 were enacted on December 3, 2001 by Ord. No. 2001-2, adopted by Res. No. 9-2001.]

CHAPTER 1. IN GENERAL

Sec. 14-3101. Findings.

The Tribal Council finds:

(a) That the members of the Tribe and others within the Settlement will benefit from written regulations governing hunting, fishing, trapping, and gathering;

(b) That an orderly system for control and regulation of hunting, fishing, trapping, and gathering within the Settlement is necessary and beneficial to the members of the Tribe and others located within the Settlement; and

(c) That regulation of hunting, fishing, trapping, and gathering within the Settlement is necessary to promote the public health and safety and for proper conservation and management of wildlife populations within the Settlement.

Sec. 14-3102. Declaration of Purpose and Policy.

The purpose and policy of this Title is:

(a) To provide for the general welfare of the members of the Tribe and other located within the Settlement;

(b) To protect and preserve the property and natural resources of the Tribe;

(c) To promote public health and safety and the conservation and management of wildlife populations within the Settlement by prescribing regulations and procedures for governing hunting, fishing, trapping, and gathering within the Settlement; and

(d) To provide for an orderly administration and regulation of hunting, fishing, trapping, and gathering within the Settlement.

Sec. 14-3103. Definitions.

Unless the context requires otherwise, as used in this Article:

(a) "Angling" means to take fish with hook and line. Angling shall be limited to the use of one line with up to two hook points for bait. Artificial lures and flies shall not exceed six hook points in total combination on a single line.

(b) "Arrow" shall include both fishing arrows and hunting arrows.

(c) "Attended" means a line used for taking fish that is within sight of the person who set the line.

(d) "Bow" means any instrument designed for the purpose of propelling arrows and which is drawn and held by and through the efforts of the person releasing the arrows.

(e) "Chief" means the Chief Game Warden of the Commission.

(f) "Commission" means the Sac & Fox Tribe of the Mississippi in Iowa Fish and Game Commission established by this Article.

(g) "Conservation" means the protection and management of wildlife in its natural habitat in a manner intended to achieve a sustained harvestable surplus.

(h) "Department" means the Sac & Fox Tribe of the Mississippi in Iowa Natural Resources Department.

(i) "Director" means the Director of the Department.

(j) "Disabled" means a person with a permanent or temporary physical impairment, established by medical evidence and verified by a licensed physician.

(k) "Firearm" means a device that, through a mechanical release, ignites a confined powder charge that propels a projectile or projectiles through and out of a metal tube.

(l) "Habitat" means the combination of living and non-living factors that provide an environment or area for members of the natural community to survive.

(m) "Hunt, fish, trap, or gather" or "hunting, fishing, trapping, or gathering" means taking or attempting to take, by any means, any wildlife.

(n) "License or permit" means a license or permit issued pursuant to the provisions of this Article.

(o) "Motor Vehicle" means a self-propelled vehicle or a vehicle propelled or drawn by a self-propelled vehicle that is operated on a highway, on a railroad track, on the ground, in the water or in the air.

(p) "Possession" means both actual and constructive possession and control.

(q) "Resources Committee of the Tribal Council" means the committee of the Tribal Council responsible for matters involving the natural resources of the Tribe pursuant to Article I, Section 5 of the Bylaws of the Sac & Fox Tribe of the Mississippi in Iowa.

(r) "Spear" means a pole tipped with a sharp head or blade or with barbed tines.

(s) "Take" or "Taking" means pursuing, shooting, killing, capturing, trapping, snaring, spearing, or netting wildlife, and includes all lesser acts such as disturbing, restraining, harassing, harrying, or worrying wildlife, or placing, setting, drawing, or using any net, trap or other device used to take wildlife, and includes every attempt to take and every act of assistance to any person in taking or attempting to take wildlife.

(t) "Transport" or "Transportation" means causing or attempting to cause wildlife to be carried or moved by a device and includes accepting or receiving wildlife for transportation or shipment.

(u) "Warden" means a game warden of the Commission.

(v) "Watercraft" means any description of watercraft used, or capable of being used, as a means of transportation on water.

(w) "Wildlife" means all species of non-domesticated mammals, fish, birds, reptiles, amphibians, mollusks, crustaceans, and vegetation, and all domesticated mammals, fish, birds, reptiles and amphibians which have escaped from captivity into the wild state, but does not include those mammals, fish, birds, reptiles, amphibians, mollusks, crustaceans, and vegetation impounded in private ponds, tanks, cages, planters or gardens or otherwise held in captivity, unless held pursuant to a license or permit issued pursuant to this Article.

CHAPTER 2. FISH AND GAME COMMISSION

Sec. 14-3201. Establishment.

(a) Pursuant to Article X, Section 1(q) of the Constitution, there is hereby established a fish and game agency to be known as the Sac & Fox Tribe of the Mississippi in Iowa Fish and Game Commission as a subordinate agency of the Tribe, within the Department and delegated the powers, duties, and responsibilities of the Tribal Council as set forth herein and as otherwise provided by the laws of the Tribe.

(b) The Commission shall consist of a Chief Game Warden and such other game wardens and employees as may be required.

Sec. 14-3202. General Authority.

(a) The Commission shall be responsible for the management and protection of wildlife, wildlife habitats, and native vegetation species, and for the administration and enforcement of ordinances and regulations of the Tribe relating to wildlife and habitats. The Commission shall have the authority reasonable and necessary to carry out its duties as provided herein and other applicable law.

(b) The Chief and, when authorized by the Chief, all wardens and employees of the Commission, except clerical workers therein, shall be vested with and exercise all the powers and authority of peace officers of the Tribe.

Sec. 14-3203. Intergovernmental Agreements.

The Chief or his designee is authorized to enter into negotiations with other jurisdictions for agreements relating to the conservation, preservation, and propagation of wildlife or any other agency

responsibility. Any such agreement shall not be effective unless and until approved by the Director and the Tribal Council.

Sec. 14-3204. Commissions; Badge of Authority.

(a) The Chief and every warden shall swear or affirm the following oath before the Tribal Council or its designee:

> "I,_____, do solemnly swear [or affirm] that I will support and defend the Constitution of the Sac & Fox Tribe of the Mississippi in Iowa and the Constitution of the United States against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of the Sac & Fox Tribe of the Mississippi in Iowa in accordance with the Constitution and Bylaws of the Sac & Fox Tribe of the Mississippi in Iowa."

(b) The Chief and each warden shall be issued identification cards to certify their commission. The commission card of the Chief shall be signed by the Chairman and the Secretary of the Tribal Council. The commission card of wardens shall be signed by the Chairman of the Tribal Council and the Chief.

(c) The Chairman of the Tribal Council shall issue to the Chief a badge of authority of such design as the Chairman of the Tribal Council may determine. The Chief shall issue to each warden of the Commission a badge of authority which badge shall be of such design as the Chief may determine.

Sec. 14-3205. Cross-Deputization.

(a) Wardens of the Commission may be deputized, permanently or for a time certain, by another jurisdiction to aid in the effective law enforcement on the Settlement.

(b) Law enforcement officers or security officers from other departments, agencies, or enterprises of the Tribe may be deputized into the Commission, permanently or temporarily, to aid in the enforcement of the laws of the Tribe.

(c) Law enforcement officers from other jurisdictions may be deputized into the Commission, permanently or temporarily, only pursuant to an agreement, approved by the Tribal Council, between the Tribe and the other jurisdiction.

Sec. 14-3206. Organization.

Subject to the approval of the Director, the Chief shall be responsible for establishing an organizational structure for the Commission which shall include a chain of command and a description of the duties and responsibilities for each position and employee within the Commission.

Sec. 14-3207. Chief Game Warden; Duties and Responsibilities.

(a) The Tribal Council shall appoint a Chief upon such terms and conditions of appointment as they shall direct. The position of Chief shall be deemed a nontenured policymaking and advisory position and shall not be considered an employee of the Department. In addition to any other qualifications set by the Tribal

Council, the Chief shall be a person of good moral character and of good standing in the community in which he or she lives.

(b) In the absence of the Chief, the next in command shall perform the functions of the Chief.

(c) The Chief and, in his absence, the next in command, shall be under the direction of the Chairman of the Tribal Council, or his designee, who shall carry out the policies and mandates of the Tribal Council. All such actions of the Tribal Chairman, or his designee, shall be subject to subsequent action by the Tribal Council.

(d) The duties and responsibilities of the Chief shall be as follows:

(1) To be responsible for and have charge over all wildlife and wildlife habitat conservation and management functions on the Settlement;

(2) To hire wardens and other employees of the Commission, subject to appropriations;

(3) To discipline and dismiss wardens and other employees of the Commission in accordance with the personnel rules and regulations applicable to employees of the Tribe;

(4) To supervise and direct the operations of the Commission, its wardens and other employees;

(5) To be in command of all wardens and other employees of the Commission;

(6) To instruct, train and advise wardens of the Commission for the efficient administration of laws related to management and conservation of wildlife and wildlife habitat on the Settlement;

(7) To issue and revoke licenses and permits as provided for by this Article;

(8) To keep and maintain a current and accurate system of records of licenses and permits issued, type issued, to whom issued, and establishing procedures for obtaining licenses and permits;

(9) To report quarterly to the Director on all Commission activities, including present, proposed, and future plans, projects, and programs;

(10) To adopt rules and regulations as provided herein;

(11) To act as liaison to other wildlife conservation and management agencies;

(12) To make recommendations to the Tribal Council, in cooperation with the Director, for amendments and additions to this Article and other laws of the Tribe related to conservation and management of wildlife and wildlife habitat or otherwise related to the functions of the Commission;

(13) To review annually each specially issued license or permit to determine whether limitations of issuance are necessary, or whether additional licenses and permits may be issued, and making the necessary recommendations regarding such licenses and permits;

(14) To collect all fees charged for the issuance of licenses and permits and all fines imposed for a violation or violations of this Article and keeping and maintaining an accurate account of all monies collected or disbursed;

(15) To prepare an annual assessment of the fish and wildlife population of the Settlement and recommend, in cooperation with the Director, to the Tribal Council that stocking of fish species be undertaken, increased, or decreased or that habitat modification be undertaken as necessary for enhancement of the resources;

(16) To make recommendations to the Director, who shall communicate such recommendations to the Tribal Council, on matters concerning funding, expenditures, and disbursements;

(17) To make recommendations to the Tribal Council for requests for game for the purpose of a ceremonial, cultural, or religious use, for the elderly, or to provide meat to persons in need and to procure such requested game upon written order of the Tribal Council;

(18) To cooperate and coordinate with the Director on all matters of conservation to avoid conflicts in operations and activities;

(19) To perform such other conservation-related activities as the Tribal Council may, from time to time, direct; and

(20) To delegate his duties, responsibilities and authority to subordinate wardens and employees of the Commission *provided* the Chief shall always maintain the primary responsibility for the operations of the Commission.

Sec. 14-3208. Rules and Regulations.

(a) The Chief shall promulgate rules and regulations governing the operation of the Commission and the conduct of wardens and other employees of the Commission subject to approval of the Tribal Council.

(b) The Commission is authorized, from time to time and in cooperation with the Director, to issue such rules and regulations as are deemed necessary to carry out the provisions of this Article, subject to the approval of the Resources Committee of the Tribal Council. Such rules and regulations shall include, but not be limited to:

(1) Establishment of types of licenses and permits, including licenses and permits to sell or offer for sale wildlife taken on the Settlement;

(2) Establishment of fees for licenses and permits issued by the Commission;

(3) Regulation of hunting, fishing, trapping, and gathering seasons;

(4) Activities relating to scientific study;

(5) Bag and catch limits;

(6) Designation of areas within which hunting, fishing, trapping and gathering shall not be allowed; and

(7) Regulations of disposition of items confiscated and wildlife seized pursuant to this Article.

(c) The Commission may prescribe seasons, bag limits and other regulations pertaining to taking migratory birds in compliance with the Federal Migratory Bird Treaty Act or other applicable law.

Sec. 14-3209. Qualifications of Game Wardens.

(a) It shall be the goal of the Commission to attract and retain experienced and professional wardens and other employees.

(b) Subject to the approval of the Tribal Council, the Chief shall establish minimum standards of training and qualifications which all wardens will be encouraged or required to meet.

(c) The Chief shall explore, schedule, and arrange periodic training and retraining programs for wardens from all available sources. Such programs shall stress not only basic law enforcement procedures and techniques, but shall also deal with conservation issues and community and public relations and other appropriate topics.

Sec. 14-3210. Duties and Responsibilities of Game Wardens.

(a) The duties and responsibilities of wardens of the Commission shall be:

(1) To enforce the provisions of this Article, rules and regulations of the Commission, directives of the Tribal Council, and other laws of the Tribe which pertain to management of wildlife and wildlife habitats and, where applicable, the laws of the United States;

(2) To obey promptly all orders of the Chief, ranking wardens, or other supervisors;

(3) To report and investigate all violations of any provision of this Article or other law administered by the Commission when there exists sufficient grounds for doing so;

(4) When ordered by the Chief or the Tribal Council or requested by the Prosecutor of the Tribe, to appear and provide testimony in appropriate tribunals regarding their investigations and activities;

(5) To lend assistance to other wardens of the Commission, other law enforcement officers of the Tribe, and, when permitted by a valid inter-governmental agreement or other applicable law, officers of other law enforcement agencies;

(6) To prevent, whenever possible, violations of this Article and other laws administered by the Commission;

(7) To inform themselves as to the laws of the Tribe;

(8) To attend such training sessions as the Tribal Council or Chief may direct;

(9) To become familiar with and practice at all times principles of good law enforcement procedure;

(10) To serve subpoenas and summonses issued in matters arising under this Article or other laws administered by the Commission;

(11) To inspect any boat, vehicle, box, game box, or other package when there exists a reasonable belief that wildlife, or parts thereof, is possessed in violation of any provision of this Article or other law administered by the Commission;

(12) To inspect all wildlife taken, possessed, or transported, and seize all wildlife taken, possessed, or transported when reasonably believed to have been taken, possessed, or transported in violation of any provision of this Article or other law administered by the Commission;

(13) To confiscate firearms, devices and equipment used in taking wildlife in violation of any provision of this Article or other law administered by the Commission or otherwise used in violation of any provision of this Article or other law administered by the Commission;

(14) To issue citations to persons who are in violation of the provisions of this Article or other law administered by the Commission;

(15) To keep all equipment furnished by the Tribe in good repair and order and to immediately report the loss of any or all such property; and

(16) To obey all rules and regulations which the Chief shall adopt.

(b) Wardens of the Commission shall:

(1) Not use unnecessary force or violence in making arrests, searches or seizures;

(2) Whether on or off duty, abstain from the use of narcotics or the excessive use of alcohol;

(3) Whether on or off duty, refrain from engaging in any act which would reflect discredit on the Tribe or the Commission;

(4) Refrain from the use of profane, vulgar, insolent, or offensive language; and

(5) Comply with the rules of conduct imposed by the Chief and the Tribal Council.

Sec. 14-3211. Appropriations.

(a) The Tribal Council shall appropriate and authorize the expenditure of Tribal funds for the operation of the Commission. The amounts to be appropriated shall be consistent with the needs of the Commission for proper conservation, law enforcement and public safety as it relates to hunting, fishing,

trapping, gathering and other wildlife related activities on the Settlement and for the Tribe as determined by the Tribal Council.

(b) To assist the Tribal Council in making such appropriations, the Chief shall submit proposed budgets and reports of expenses and expenditures to the Director, who shall forward such proposed budgets and reports of expenses and expenditures to the Tribal Council as part of the proposed budget and reports of expenses and expenditures of the Department, at such intervals and in such form as may be prescribed by the Tribal Council.

CHAPTER 3. LICENSES AND PERMITS

Sec. 14-3301. Requirement of Licenses and Permits.

(a) No person may hunt, fish, trap, or gather wildlife on the Settlement without having on their person a valid license or permit issued by the Commission, unless otherwise expressly provided by this Article. All persons issued a license or permit for hunting, fishing, trapping, or gathering on the Settlement shall comply with this Article and any rules and regulations promulgated thereto as a condition of such license or permit.

(b) Pursuant to regulation issued in accordance with this Article, the Commission may exempt members of the Tribe from the requirements of subsection (a) of this Section, provided that members of the Tribe shall carry their Tribal enrollment identification card at all times while hunting, fishing, trapping, or gathering within the Settlement, shall present such identification upon request to any member of the Commission or law enforcement official of the Tribe, and shall comply with all other provisions of this Article and the regulations of the Commission.

Sec. 14-3302. Persons with Physical Disabilities.

The Commission may waive certain restrictions to reasonably accommodate persons with physical disabilities for the purpose of facilitating them while hunting, fishing, trapping, or gathering on the Settlement.

Sec. 14-3303. Children.

(a) Children under fourteen (14) years of age may hunt, fish, trap, or gather without a license or permit if accompanied by an adult or legal guardian holding a valid license or permit issued by the Commission. Such children shall be entitled to one-half (½) of the adult bag limit. No more than one such child may hunt, fish, trap, or gather with an adult or legal guardian who possesses a license or permit.

(b) Children under fourteen (14) years of age may be issued a license or permit to hunt, fish, trap, or gather subject to Section 14-3405 of this Article. Such children shall be entitled to the full adult bag limit.

Sec. 14-3304. Issuance of License or Permit.

(a) Except for those specified in Section 14-3307, licenses or permits may be issued upon application to the Commission or other duly authorized persons or entities and payment of the prescribed fee.

(b) A person desiring a license or permit shall state in their application their name, address, date of birth, weight, nationality, eye color, hair color, social security number, and any other information required by rule or regulation of the Commission.

(c) Every person applying for a license or permit shall have a valid driver's license or other identifying document.

Sec. 14-3305. Fees for License or Permit.

(a) The Commission may charge fees for the issuance of licenses and permits required under this Article. Such fees for licenses and permits shall be determined by the Commission and set forth in the rules and regulations of the Commission.

(b) The Commission may vary the fees charged for licenses or permits according to the duration of the license or permit or the type of wildlife permitted to be taken under the license or permit. The Commission may also charge fees to members of the Tribe and other residents of the Settlement that are less than the fees charged to non-members or non-residents of the Settlement.

Sec. 14-3306. Complimentary License or Permit.

Complimentary licenses or permits may be issued only by the Chief with the prior approval of the Tribal Council.

Sec. 14-3307. Special License or Permit.

(a) Special hunting, fishing, trapping, gathering and scientific research licenses or permits may be obtained, when authorized by the Commission, the Director, and the Tribal Council, for the following:

(1) The hunting, fishing, trapping, or gathering of non-native wildlife, except wild boars;

(2) The taking of wildlife for scientific purposes;

(3) Conducting environmental research for the introduction of both aquatic and terrestrial species;

(4) Conducting environmental assessments for development of tribal lands or any other similar purpose; or

(5) Any other purpose authorized by the Tribal Council.

(b) Anyone requesting such a special license or permit shall make application to the Commission. Such licenses or permits shall be subject to such fees and conditions and shall be of such duration as are prescribed by the Commission with final approval of the Tribal Council.

Sec. 14-3308. Licenses and Permits Non-Transferable.

The privilege granted by a license or permit issued by the Commission shall not be assignable or otherwise transferable to any other person.

Sec. 14-3309. Where to Purchase Licenses and Permits.

Except for licenses and permits issued under Section 14-3307, hunting, trapping, fishing, and gathering licenses or permits may be obtained from persons authorized by the Tribal Council or the Commission to issue licenses or permits on behalf of the Commission.

Sec. 14-3310. Duration of License or Permit.

(a) All hunting, fishing, trapping, and gathering licenses and permits, except those issued pursuant to Section 14-3307, shall expire on December 31 of the year of issuance or such lesser time as designated by the Commission.

(b) Nothing in this Section shall prevent the Commission from establishing and issuing licenses or permits of a daily, weekend, weekly, monthly, seasonal, or other duration.

Sec. 14-3311. Revocation of License or Permit.

(a) Any license or permit authorized by this Article may be revoked or suspended by the Commission upon a violation of any provision of this Article, the rules and regulations of the Commission, or any other condition of the license or permit.

(b) No person whose license or permit has been revoked or suspended pursuant to this Article shall hunt, fish, trap, or gather for any fish or wildlife, the harvest of which is regulated by this Article, during such revocation or suspension.

CHAPTER 4. TAKING OF WILDLIFE

Sec. 14-3401. Wildlife Property of Tribe.

Notwithstanding any other provision of law, wildlife, both resident and migratory, native or introduced, found within the Settlement, are and shall remain the property of the Tribe unless and until such wildlife is taken in conformance with the provisions of this Article, any rules and regulations of the Commission, any other applicable law, and at such times, in such places, in such manner and with such devices as provided by law or rule or regulation of the Commission.

Sec. 14-3402. Taking of Wildlife.

Wildlife may be taken only at such times, in such places, in such manner and with such weapons, equipment and devices, as is allowed by this Article and any regulations issued hereunder, or by special license or permit issued pursuant to Section 14-3307 of this Article. Only those species described in the seasonal regulations established by the Commission pursuant to Section 14-3208(b) of this Article or as otherwise specified in issuing a special license or permit under Section 14-3307 of this Article may be taken.

Sec. 14-3403. Time of Taking.

Wildlife, except fish and bullfrogs, shall be taken only between and from one-half (½) hour before sunrise to one-half (½) hour after sunset of the same day.

Sec. 14-3404. Methods of Taking.

(a) Fish may be taken only by angling, except as otherwise authorized by the Commission, and except further that members of the Tribe may utilize traditional methods of taking fish. Fishing lines shall constantly be attended. Hooks, flies and lures shall be used in such a manner that the fish takes or attempts to take it in his mouth. In the case of traditional methods utilized by members of the Tribe, such members must use traditional materials and methods.

(b) Foul and upland game birds may be taken only with shotguns using shotshells containing shot no larger than number six (6) shot. Migratory waterfowl may be taken only with nontoxic shot. The use of lead shot, including plated lead shot, while waterfowl hunting or trapping is prohibited.

(c) Rabbits may be taken only with bow and arrow, rifles that fire .22, .222, or .308 rimfire shells, and shotguns no larger than 12 gauge using shotshells containing shot no larger than number six (6) shot.

(d) Bullfrogs may be taken only by angling, spear, gig, bow and arrow, dipnet, or by hand.

(e) Reptiles may be taken only by hand, spear, gig, bow and arrow, net, trap, and with shotguns using shotshells containing shot no larger than number six (6) shot.

(f) Amphibians (except bullfrogs), water dogs, soft-shelled turtles, mollusks, and crustaceans may be taken only by angling, by hand, with any hand-held, non-motorized implement which does not discharge a projectile, or with a minnow trap approved by the Commission.

(g) The Commission may establish other manners and methods of taking wildlife or limit or prohibit the manners and methods of taking wildlife consistent with this Section and the conservation of wildlife.

Sec. 14-3405. Firearms; Prohibitions.

(a) The following weapons, ammunition, devices and materials may not be used for the taking of wildlife, nor may they be possessed in the field while hunting, fishing, trapping, or gathering:

(1) Fully automatic firearms, including firearms capable of selective automatic fire;

(2) Tracer and armor piercing ammunition and full jacketed bullets not designed for expansion or wildlife hunting;

(3) Semi-automatic firearms with a magazine capacity of more than five (5) centerfire cartridges;

(4) Shotguns with a capacity of more than three (3) shells, unless it is plugged with a one-piece filler incapable of removal without disassembling the gun, so its total capacity does not exceed three (3) shells;

(5) Shotguns larger than ten (10) gauge;

(6) Poisoned arrows, arrows with a stupefying substance, or arrows with explosive tips;

(7) Cross bows;

(8) Pitfalls, explosives, set guns, poisons or stupefying substances;

(9) Jacklight or any other type of artificial light, including any type of vehicular lighting, except when used for the taking of bullfrogs or raccoons or foxes or for taking fish by spear;

(10) Any foot or leghold trap with a jaw opening greater than eight and three-quarters (8¾) inches;

(11) Snare cable or wire exceeding one-eighth ($^1/_8$) inch in diameter; and

(12) Weapons banned by other applicable law.

(b) Hand guns may be used for the hunting of wildlife only upon obtaining prior written permission of the Commission. In no event shall a hand gun used for the hunting of wildlife have a barrel shorter than four (4) inches in length.

Sec. 14-3406. Firearm Safety Course.

No person under eighteen (18) years of age shall hunt, fish, trap, or gather wildlife on the Settlement with a firearm without possessing evidence of having satisfactorily completed a firearms safety course established or approved by the Commission.

Sec. 14-3407. Sale and Possession of Fish and Wildlife.

(a) No person while on the Settlement shall have in his possession or under his control any wildlife in excess of the bag or possession limits established by the Commission except that wildlife taken off of the Settlement, if properly tagged or identified in a manner determined sufficient by the Commission to demonstrate they were taken off of the Settlement, shall not be subject to such bag or possession limits. The possession of or control of wildlife not so identified and tagged as part of an off-Settlement taking shall be presumed to be part of such bag or possession limit *provided* such presumption may be rebutted through appropriate and sufficient proof that such wildlife was taken off of the Settlement.

(b) No person shall sell or offer for sale wildlife or any part thereof taken on the Settlement unless and until such wildlife has been taken in conformance with the provisions of this Article, any rules or regulations of the Commission, any other applicable law, and any conditions of the license or permit pursuant to which such wildlife is taken. Unless tagged or identified in a manner determined sufficient by the Commission to demonstrate they were taken off of the Settlement, wildlife or any part thereof sold or offered for sale on the Settlement shall be presumed to have been taken on the Settlement *provided* such presumption can be rebutted through appropriate and sufficient proof that such wildlife was taken off of the Settlement.

Sec. 14-3408. Transportation of Wildlife.

(a) Any person who takes wildlife on the Settlement and desires to transport or does

transport such wildlife off of the Settlement must have in his or her possession a license or permit issued by the Commission.

(b) The carcasses of birds possessed or being transported shall have one full feathered wing attached so that species and number can be determined. This Section shall not apply after the possessor or transporter has reached his permanent abode.

(c) Upon request, the Commission may mark or tag wildlife taken on the Settlement for transportation off of the Settlement.

Sec. 14-3409. Duty to Report Shooting Accidents.

Any person who, while hunting, fishing, trapping, or gathering witnesses or is involved in a shooting incident resulting in injury to another person shall immediately report such incident to a warden or to the Sac & Fox Tribe of the Mississippi in Iowa Police Department. Such person shall assist such police officer or warden as requested. Thereafter, such person shall immediately file a full and complete report of the incident with the Commission and the Sac & Fox Tribe of the Mississippi in Iowa Police Department. Such report shall include the name, address, and license or permit number of the person making the report, and of others involved in the incident, if known.

CHAPTER 5. ENFORCEMENT AND VIOLATIONS

Sec. 14-3501. Enforcement.

(a) The Chief, all other wardens of the Commission, police officers of the Sac & Fox Tribe of the Mississippi in Iowa Police Department, and any other person duly authorized to do so may enforce the provisions of this Article.

(b) Any person authorized to enforce the provisions of this Article may, within the Settlement, conduct a search of a person, object or place and seize things when the search is made:

(1) With consent;

(2) Pursuant to a valid search warrant;

(3) With the authority and within the scope of a right of a lawful inspection;

(4) Incident to the issuance of a lawfully issued citation under this Article; or

(5) As otherwise authorized by law or by the provisions of this Article.

(c) Persons authorized to enforce the provisions of this Article may:

(1) Conduct routine inspections of vessels, boats, wagons, trailers, automobiles, vehicles, snowmobiles, containers, packages and other receptacles contained therein, utilized by persons reasonably believed to be in violation of this Article or any rule or regulation of the Commission;

(2) Stop and board any watercraft or stop any motor vehicle if the person has reasonable cause to believe that a violation or breach of this Article is occurring or has occurred;

(3) With or without a warrant, open, enter and examine vessels, boats, wagons, trailers, automobiles, vehicles, snowmobiles and packages and other receptacles contained therein, in which the person has probable cause to believe that contraband or illegally taken or possessed fish and wildlife, or carcasses or parts thereof, may be contained;

(4) Issue a citation on a form approved by the Chief to any person upon reasonable belief that such person has violated or breached a provision of this Article;

(5) Seize and hold, subject to the provisions of this Article, any alleged contraband or property which such person reasonably believes may be needed as evidence in connection with the institution of proceedings against a violator of this Article or any rule or regulation of the Commission or any property otherwise authorized to be seized by the provisions of this Article; and

(6) Utilize any other appropriate methods of law enforcement available under the law.

(d) The inspections authorized by this Section shall be conducted in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities.

Sec. 14-3502. Violations.

It is a violation of this Article for any person:

(a) To take, possess, transport, sell, or offer for sale wildlife or parts thereof, except as permitted by this Article and regulations of the Commission;

(b) To destroy, injure or molest livestock, growing crops, personal property, notices or signs or other property while hunting, fishing, trapping or gathering;

(c) To discharge a firearm within one-fourth (¼) mile of a house, other residence, or building without the written permission of the owner or resident of said structure;

(d) To take wildlife and willfully permit the edible portions thereof to spoil or otherwise go to waste;

(e) To take game other than birds with the aid of dogs;

(f) To obtain or attempt to obtain a license or permit after a license or permit for the same purpose and for the same period has been revoked;

(g) To litter, dump, or drain raw sewage onto the ground or into any body of water or any area within the Territory of the Tribes;

(h) To possess while hunting, any device designed to silence, muffle, or minimize the report of a firearm;

(i) To obtain by fraud or misrepresentation a license or permit;

(j) To discharge a firearm, black powder firearm, bow and arrow, or pneumatic firearm from a vehicle, including but not limited to an automobile, aircraft, train, or boat, except for United States Coast Guard approved signaling devices or as otherwise expressly authorized in writing by the Commission; or discharge a firearm, black powder firearm, bow and arrow, or pneumatic firearm from, upon, across or onto a roadway or any other right-of-way maintained for public use;

(k) To take wildlife, or handle or discharge any firearm or other dangerous hunting instrument, with wanton disregard for the safety of human life or property, in a careless or reckless manner, or while under the influence of alcohol or drugs;

(l) To possess or transport a firearm in any part of a vehicle, including but not limited to an automobile, aircraft, train, or boat, in which the chamber of the firearm contains an unfired shot shell or cartridge;

(m) To take any wildlife other than those species described in seasonal regulations or other than during the prescribed season;

(n) To take any aquatic or terrestrial wildlife in excess of the prescribed bag limit;

(o) To hunt, fish, trap, or gather or attempt to hunt, fish, trap, or gather in any area closed to such activities by regulation of the Commission or order of the Chief;

(p) To hunt, fish, trap, or gather wildlife, or conduct any activity pursuant to Section 14-3307 of this Article, or attempt to do so, without a valid license or permit;

(q) To fail or refuse to exhibit a license or permit on demand of any warden or other representative of the Commission, or of any law enforcement official of the Tribe or any other duly authorized official of the Tribe or the United States, provided such authorized person shall display proper credentials upon request;

(r) To fail to report a shooting incident as required by Section l4-3408 of this Article;

(s) To unnecessarily waste, injure, destroy or impair wildlife or other natural resources on lands or waters of the Settlement while engaging in activities regulated by this Article;

(t) To allow any other person to make use of a license or permit issued to another, regardless of whether or not such person would qualify to receive such a license or permit;

(u) To wantonly destroy or waste wildlife on lands or waters subject to the governmental powers of the Tribe;

(v) To possess any wildlife without a valid license or permit;

(w) To intentionally destroy or attempt to destroy any evidence seized or confiscated pursuant to this Article or intentionally destroy or attempt to destroy any evidence about to be so seized or confiscated;

(x) To chase game with a snowmobile or any motorized vehicle; or

(y) To violate any other provision of this Article or regulation of the Commission.

Sec. 14-3503. Persons Liable.

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

(b) A person is concerned in the commission of a violation of this Article if the person:

(1) Directly commits the violation;

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

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

Sec. 14-3504. Voluntary Intoxication.

Temporary intoxication resulting from the voluntary ingestion, consumption, inhalation or injection of alcohol, an illegal substance or other psychoactive substance, or the abuse of prescribed medications does not constitute a defense to any violation of Section 14-3502 or any requisite state of mind.

Sec. 14-3505. Civil Fines.

(a) Any person violating the provisions of Section 14-3502 of this Article shall be subject to a civil fine of not more than Five Hundred Dollars ($500.00) for each offense. Each day during which such violation shall continue shall constitute a separate civil violation of such Section.

(b) In addition to or in lieu of any other fine, action, or remedy authorized pursuant to this Article, any person violating the provisions of Section 14-3502 of this Article may have his license or permit revoked.

Sec. 14-3506. Civil Damages.

In addition to any other fine, action, or remedy provided by this Article, the Commission may recover damages in a civil action against any person who unlawfully or recklessly or negligently takes or destroys any crops, woodlands, livestock, signs, equipment, structures, or other property belonging to the Tribe. The measure of damages in any such action shall be the amount which will compensate for all the damages proximately caused by such taking or destruction of such property.

Sec. 14-3507. Liquidated Damages.

In addition to any other fine, action, or remedy provided by this Article, the Commission may recover damages in a civil action against any person who unlawfully sells, takes, or possesses any wildlife as reimbursement to the Tribe for the value of such wildlife. The Commission shall establish a schedule of such damages by type of wildlife by regulation in accordance with this Article.

Sec. 14-3508. Confiscation of Property.

(a) Any warden or other law enforcement official of the Tribe may seize any wildlife or confiscate any firearm, trap, device, equipment or other property possessed and/or used in violation of any provision of this Article or regulation of the Commission. Any person from whom such property is confiscated or wildlife seized shall be charged with a violation of this Article. Confiscated property and seized wildlife shall remain in the possession of either the Commission or the Sac & Fox Tribe of the Mississippi in Iowa Police Department, pending final disposition of any resulting proceedings.

(b) Any property confiscated pursuant to this Article shall serve the purpose of a bond and security to ensure payment of any civil fines, judgment, or other costs which may be imposed upon a person found in violation of the any provision of this Article.

Sec. 14-3509. Receipts; Records.

Upon the confiscation of property, a warden or other law enforcement official of the Tribes shall issue to the person from whom the property is confiscated a receipt containing a description of the property confiscated, including the serial number of any firearm confiscated. The Commission shall maintain a record of all wildlife seized and firearms, devices or other property confiscated.

Sec. 14-3510. Release of Property.

(a) Upon final disposition of, including payment of any fine or other judgment imposed by, any proceeding resulting from the violation of any provision of this Article, all confiscated property, except for wildlife, which may be lawfully possessed shall be promptly returned to the owner or lawful possessor.

(b) Confiscated property not claimed within sixty (60) days of such final disposition shall be Tribal property and shall be disposed of as directed by the Chief.

(c) If after six (6) months upon final disposition of any proceeding under this Article, a person found in violation of any provision of this Article refuses or otherwise does not pay any fine or judgment imposed by such proceeding, any confiscated property may be sold by the Commission, after ten (10) days notice to the violator, and the proceeds of such sale applied toward the amount of the fine or judgment so imposed, costs of the proceedings, and the costs of the sale. After such application of proceeds, any excess amounts shall be returned to the violator.

Sec. 14-3511. Collection and Remittance of Fines and Judgments.

(a) A citation issued for violating the provisions of Section 14-3502 shall be filed with the appropriate tribunal of the Tribe and shall constitute a complaint against the violator initiating a civil action before that tribunal. A violator may admit the violation and pay the fine set for the violation alleged or appear before the tribunal at the time set and defend against the alleged violation.

(b) Unpaid civil fines, court costs, civil damages, or other monetary assessments lawfully imposed pursuant to this Article, once admitted or imposed by the appropriate tribunal of the Tribe, shall constitute a legal obligation owed to the Tribe and may be collected by the Commission in any manner authorized by law for the collection of legal obligations and debts. Initiating an action in any court or tribunal to enforce any civil

fine or monetary judgment imposed by the Commission or a tribunal of the Tribe is not and shall not be construed as a waiver of sovereign immunity.

(c) Upon a showing of financial inability or hardship, the appropriate tribunal of the Tribe may, in its discretion, order payment of any lawfully imposed civil fine, court cost, civil damage or other monetary assessment to be made through the performance of community service work requirements in lieu of money payments. The performance of such community service work shall be credited at a reasonable hourly rate established by the tribunal.

(d) Except as otherwise expressly provided in this Section, monies collected pursuant to this Article shall be remitted to the Sac & Fox Tribe of the Mississippi in Iowa and shall be used to defray the costs of the Commission and to compensate the Tribe for the loss of wildlife taken in violation of this Article.

(e) Monies collected as damages pursuant to Section 14-3505 of this Article shall be remitted to the Sac & Fox Tribe of the Mississippi in Iowa and shall be used to repair, restore, or otherwise remedy the destruction or other damage for which such monies were collected. If such monies collected as damages cannot be reasonably or practicably applied to such repair, restoration, or remedy of destruction or other damage, the monies shall be remitted pursuant to subsection (d) of this Section.

Sec. 14-3512. Disposal of Wildlife.

Wildlife seized pursuant to this Article, when no longer needed for evidentiary purposes, shall be disposed of in accordance with regulations issued by the Commission pursuant to Section 14-3208 of this Article, which shall include providing such wildlife to members of the Tribe for ceremonial, cultural, or religious use, for the elderly, or to provide food to persons in need.

TITLE 14. NATURAL RESOURCES

ARTICLE IV

PROTECTED SPECIES

[NOTE: Except as otherwise noted, the provisions of Article IV, Title 14 were enacted on December 3, 2001 by Ord. 2001-2, adopted by Res. No. 9-2001.]

CHAPTER 1. IN GENERAL

Sec. 14-4101. Definitions.

Unless the context requires otherwise, as used in this Article:

(a) "Chief Game Warden" means the Chief Game Warden of the Sac & Fox Tribe of the Mississippi in Iowa Fish and Game Commission.

(b) "Commission" means the Sac & Fox Tribe of the Mississippi in Iowa Fish and Game Commission.

(c) "Critical habitat" means, for a threatened, endangered, or protected species:

(1) The specific areas within the geographical area occupied by the species which contains those features necessary to the conservation of the species and which may require special protection; and

(2) The specific areas outside the geographical area occupied by the species that are essential for the conservation of the species.

(d) "Director" means the Director of the Sac & Fox Tribe of the Mississippi in Iowa Natural Resources Department.

(e) "Endangered" means in danger of extinction throughout all or any portion of the Settlement except for species determined by the Tribal Council to constitute a pest.

(f) "Habitat" means the combination of living and non-living factors and specific area within the geographical area occupied by a species that provide an environment or area for members of the natural community to survive.

(g) "Resources Committee of the Tribal Council" means the committee of the Tribal Council responsible for matters involving the natural resources of the Tribe pursuant to Article I, Section 5 of the Bylaws of the Sac & Fox Tribe of the Mississippi in Iowa.

(h) "Restoration, conservation, and preservation" means:

(1) With reference to species of wildlife that are endangered or threatened, to use and the use of all methods and procedures which are reasonable and appropriate to bring such species to the point at which it is no longer endangered or threatened; and

(2) With reference to species of wildlife that are designated protected, to use and the use of all methods and procedures which are reasonable and appropriate to serve the reason for which such species has been designated protected.

(i) "Species" includes any subspecies of wildlife and any distinct population segment of any species which interbreeds when mature.

(j) "Take" or "Taking" means pursuing, shooting, killing, capturing, trapping, snaring, spearing and netting wildlife, and all lesser acts such as disturbing, harrying, worrying, placing, setting, drawing, or using any net, trap or other device used to take wildlife, and includes every attempt to take and every act of assistance to any person in taking or attempting to take wildlife.

(k) "Threatened" means any species which is likely to become endangered within the foreseeable future throughout all or a part of the Settlement.

(l) "Wildlife" means all species of non-domesticated mammals, fish, birds, reptiles, amphibians, mollusks, crustaceans, and vegetation, and all domesticated mammals, fish, birds, reptiles and amphibians which have escaped from captivity into the wild state, but does not include those mammals, fish, birds, reptiles, amphibians, mollusks, crustaceans, and vegetation impounded in private ponds, tanks or cages, or otherwise held in captivity.

CHAPTER 2. DESIGNATION OF PROTECTED SPECIES

Sec. 14-4201. Authority to Designate Protected Species.

(a) Subject to the approval of the Tribal Council and in consultation with the Director, the Chief Game Warden may designate any species of wildlife as threatened or endangered if such species of wildlife is threatened or endangered, as the case may be.

(b) Subject to the approval of the Tribal Council and in consultation with the Director, the Chief Game Warden may also designate any species of wildlife as protected on one or more of the following grounds:

(1) The population of the species of wildlife has been so reduced as to cause such an imbalance of competing species of wildlife that other species of wildlife have become overpopulated in a manner that is detrimental to the Settlement or other wildlife on the Settlement; or

(2) The species of wildlife has cultural, religious, or spiritual significance to the members of the Tribe.

(c) Nothing in this Section shall be construed as prohibiting or preventing the Tribal Council from designating species of wildlife as threatened, endangered, or protected by its own unilateral action.

(d) Subject to the approval of the Resources Committee of the Tribal Council, the Chief Game Warden shall publish regulations consisting of lists of those species of wildlife which have been designated as

threatened pursuant to this Article, those species of wildlife which have been designated as endangered pursuant to this Article, and those species of wildlife which have been designated as protected pursuant to this Article. The Chief Game Warden may also include in such lists any threatened or endangered species of wildlife located on the Settlement that have been so designated by the United States or the State of Iowa. Any species of wildlife contained within the list published by the Chief Game Warden pursuant to this Section, whether designated for such list by the Tribe, the United States, or the State of Iowa, shall be subject to the prohibitions of Chapter 3 of this Article.

Sec. 14-4202. Designation of Critical Habitat.

(a) Subject to the approval of the Tribal Council and in consultation with the Director, the Chief Game Warden may designate habitats within the Settlement for threatened, endangered, and protected species of wildlife which constitute critical habitats for such threatened, endangered, and protected species of wildlife.

(b) Nothing in this Section shall be construed as prohibiting or preventing the Tribal Council from designating habitat within the Settlement as critical habitat by its own unilateral action.

(c) Subject to the approval of the Resources Committee of the Tribal Council, the Chief Game Warden shall publish regulations which identify all habitats located within the Settlement designated as critical habitats pursuant to this Article. The Chief Game Warden may also include in such regulations any habitat within the Settlement which has been designated critical habitat by the United States or the State of Iowa. Any habitat contained within the list published by the Chief Game Warden pursuant to this Section, whether designated as such by the Tribe, the United States, or the State of Iowa, shall be subject to the prohibitions of Chapter 3 of this Article.

Sec. 14-4203. Rules and Regulations.

(a) Subject to the approval of the Tribal Council and in consultation with the Director, the Chief Game Warden shall issue regulations which are necessary and advisable to provide for the restoration, conservation, and preservation of threatened, endangered, and protected species of wildlife, which may include, but shall not be limited to:

(1) Closing areas where such species of wildlife are located to certain activities;

(2) Prohibiting certain methods of taking or the use of certain devices or equipment to take such species;

(3) Designating a maximum number of licenses or permits issued under Article II of this Title for taking such species of wildlife;

(4) Designating a maximum number of such species of wildlife that may be taken within any year;

(5) Permitting such species of wildlife to be taken only for specified purposes, including Tribal traditional ceremonial, cultural, and religious purposes;

(6) Prohibiting the taking or selling of such species of wildlife or parts thereof;

(7) Prohibiting the entry, injury, or damage to critical habitats; and

(8) In the case of species of wildlife which have cultural, religious, or spiritual significance to the members of the Tribe, permit such species of wildlife to be taken only by members of the Tribe to foster the culture, religion, and traditions of the Tribe.

(b) Notwithstanding any other provision of law:

(1) The Chief Game Warden shall not issue any regulations which permit the commission of any act or omission prohibited by Chapter 3 of this Article with respect to any species of wildlife designated endangered under this Article, except:

(i) As may be reasonable and appropriate to enhance the propagation or survival of such species of wildlife; or

(ii) As may be necessary for the purposes of the customs and traditions of the members of the Tribe, including subsistence purposes; and

(2) The Chief Game Warden shall not issue any regulations which would permit the commission of any act or omission prohibited by the United States Endangered Species Act with respect to any species of wildlife designated threatened or endangered or to any critical habitat so designated under such Endangered Species Act.

CHAPTER 3. LICENSES AND ENFORCEMENT

Sec. 14-4301. Licenses and Permits.

(a) If any species of wildlife listed as threatened, endangered, or protected may be taken, possessed, received, sold, delivered, exported, carried, transported, or shipped under this Article or regulations of the Commission, such species of wildlife may only be so taken, possessed, received, sold, delivered, exported, carried, transported, or shipped pursuant to a license or permit issued by the Commission under Chapter 3 of Article II of this Title.

(b) Any species of wildlife listed as threatened, endangered, or protected which the Commission permits to be taken, possessed, received, sold, delivered, exported, carried, transported, or shipped to enhance the propagation or survival of such species of wildlife shall only be so taken, possessed, received, sold, delivered, exported, carried, transported, or shipped pursuant to a special license or permit issued under Section 14-3307 of this Title.

Sec. 14-4302. Prohibited Acts.

(a) Except as expressly permitted by regulations of the Commission, it is a violation of this Article for any person:

(1) To intentionally, recklessly, knowingly, or negligently take any species of wildlife listed as threatened, endangered, or protected pursuant to this Article;

(2) To knowingly possess, receive, sell, or offer to sell on the Settlement any species of wildlife listed as threatened, endangered, or protected pursuant to this Article;

(3) To knowingly deliver, export, carry, transport, or ship, by any means whatsoever, from the Settlement any species of wildlife listed as threatened, endangered, or protected pursuant to this Article;

(4) To intentionally, recklessly, knowingly, or negligently destroy, injure or molest any habitat within the Settlement listed as critical habitat pursuant to this Article;

(5) To violate any condition of any license or permit issued pursuant to Section 14-3301 of this Chapter;

(6) To violate any regulation issued by the Commission pursuant to this Article; or

(7) To solicit another to commit, conspire to commit, attempt to commit, or cause to be committed any act prohibited under this Section.

(b) It shall not be a defense or excuse to any violation of this Section that the violator did not know or otherwise was not aware that the species of wildlife has been listed as threatened, endangered, or protected or that the habitat has been listed as critical habitat.

Sec. 14-4303. Enforcement.

(a) The Chief Game Warden, all other wardens of the Commission, police officers of the Sac & Fox Tribe of the Mississippi in Iowa Police Department, and any other person duly authorized to do so may enforce the provisions of this Article.

(b) Any person authorized to enforce this Article may exercise the powers, authority, and methods described in Section 14-3501 of this Title.

Sec. 14-4304. Civil Fines.

Any person violating the provisions of Section 14-3302 of this Article shall be subject to a civil fine of not more than Five Thousand Dollars ($5,000.00) for each offense.

Sec. 14-4305. Civil Damages.

In addition to any other fine, action, or remedy provided by this Article, the Commission may recover damages in a civil action against any person who unlawfully destroys, injures, or molests any listed critical habitat. The measure of damages in any such action shall be the amount which will compensate for all the damages proximately caused by such destruction, injury, or molestation of such critical habitat.

Sec. 14-4306. Proceedings.

Proceedings for violations of this Article, including the collection of civil fines, damages, and other monetary assessments shall be handled in accordance with the relevant provisions of Chapter 5 of Article III of this Title.

Sec. 14-4307. Seizure and Disposal of Wildlife.

(a) Any warden or other law enforcement official of the Tribe may seize any species of wildlife possessed in violation of any provision of this Article or regulation of the Commission. Seized wildlife shall remain in the possession of either the Commission or the Sac & Fox Tribe of the Mississippi in Iowa Police Department, pending final disposition of any resulting proceedings for a violation of this Article.

(b) Wildlife seized or confiscated pursuant to this Article, when no longer needed for evidentiary purposes, shall be disposed of in accordance with regulations issued by the Commission, which shall include providing such wildlife to members of the Tribe for ceremonial, cultural, and religious use, for the elderly, or to provide food to persons in need.

TITLE 14. NATURAL RESOURCES

ARTICLE V

ALL TERRAIN VEHICLE SAFETY

[NOTE: Except as otherwise noted, the provisions of Article V, Title 14 were enacted on May 18, 2005 by Res. No. 21-2005.]

CHAPTER 1. AUTHORITY, PURPOSE, & DEFINITIONS

Sec. 14-5101. Authority.

This Article is enacted under the inherent sovereign authority of the Sac and Fox Tribe Tribal Council, as the governing body of the Sac and Fox Tribe, and pursuant to Article X, § 1(e) of the Constitution of the Sac and Fox Tribe, and as recognized by the United States under Section 16 of the Indian Reorganization Act of 1934, 25 U.S.C. § 476.

Sec. 14-5102. Purpose.

The purpose of this Article is to protect the health, safety, and welfare of the residents of and visitors to the Sac and Fox Tribe Settlement by establishing minimum standards for safe operation of all terrain vehicles within the boundaries of the Sac and Fox Tribe Settlement, as set forth herein.

Sec. 14-5103. Definitions.

The terms used in this Article shall have the following meanings:

(a) "All Terrain Vehicle" or "ATV" shall mean an engine-driven device which has a net weight of 800 pounds or less, which is designed to travel on three or more low pressure tires, but not more than six tires, that is limited in engine displacement to less than 750 cubic centimeters.

(b) "Direct Supervision" means to provide supervision of another person while maintaining visual and verbal contact at all times.

(c) " 'A' scale" means the physical scale marked "A" graduated in decibels on a sound level meter which meets the requirements of the American national standards institute, incorporated, publication S1.4-1961, general purpose sound level meters.

(d) "Off-road motorcycle" means a two-wheeled motor vehicle that has a sear or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under State or Tribal law, but which contains design features that enable operation over natural terrain." Off-road motorcycles shall be considered all-terrain vehicles for the purpose of registration and this code.

(e) "Operate" means to ride in or on, other than as a passenger, use, or control the operation of an

all-terrain vehicle in any manner, whether or not the all-terrain vehicle is moving."

(f) "Owner" means a person, other than a lienholder, having the property right in or title to an all-terrain vehicle. The term includes a person entitle to use or possession of an all-terrain vehicle subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

(g) "Operator" shall mean any person who operates, or who is in actual physical control of an ATV.

(h) "Person" shall mean any Tribal member, any member of a federally-recognized tribe, or any other individual.

(i) "Road" shall mean any highway, street, road or driveway that is improved, designed, or ordinarily used for vehicular travel, which is situated within the boundaries of the Settlement as defined herein.

(j) "Sac and Fox Tribe Settlement" or "Settlement" for purposes of this Article shall include all lands within the exterior boundaries of the Sac and Fox Tribe Settlement; all trust lands held by the United States for the Tribe; and all Tribal-owned fee lands.

(k) "State Court" shall mean the Court of the State of Iowa.

(l) "Tribal-authorized officer" shall include each of the Tribe's police officers and game wardens, and any other person duly authorized by the Tribe's laws or by an agreement with the Tribe.

(m) "Tribal Council" shall mean the governing body of the Sac and Fox Tribe.

(n) "Tribal Court" shall mean the Sac and Fox Tribe Tribal Court.

(o) "Tribal member" shall mean an member of the Sac and Fox Tribe.

(p) "Tribe" shall mean the Sac and Fox Tribe of the Mississippi in Iowa.

Sec. 14-5104. Scope.

The provisions of this Article shall apply to each person who operates an ATV on the Sac and Fox Tribe Settlement.

Sec. 14-5105. Nonwaiver of Immunity.

Nothing in this Article shall be construed to constitute a waiver of the sovereign immunity of the Sac and Fox Tribe, or any of its officers, employees, or agents administering or enforcing this Article.

Sec. 14-5106. Inclusion of Language from Other Laws.

The inclusion of language, definitions, procedures, or other statutory or administrative provisions from the laws of the State of Iowa or any other source shall not be deemed as adoption of that law by the Tribe and

shall not be deemed an action deferring to state or federal jurisdiction within the Sac and Fox Tribe Settlement where such state or federal jurisdiction may be concurrent or does not otherwise exist.

Sec. 14-5107. Designated Tribal Lands.

The Tribe's Executive Director is delegated the authority to designate tribal lands that may be used by operators of ATVs consistent with the Tribe's land use policy.

CHAPTER 2. ATV REGISTRATION

Sec. 14-5201. General Requirements.

No person shall, after the effective date of this Article, operate or transport any ATV on the Settlement, except ATVs in transit by a manufacturer, distributor or dealer, unless such there is a current tribal registration for the ATV. A Registration shall be current only until the end of the calendar year in which it is issued.

(NOTE: Amended by resolution 36-2005, adopted October 13, 2005.)

Sec. 14-5202 Registration.

The Tribe, acting through its Executive Director or his designee, shall register an ATV only if:

(a) The Owner of the ATV submits an application for registration which contains a non-refundable application fee of $50.00 and an irrevocable consent to the jurisdiction of the Tribal Court for:

(1) all citations issued to the owner;

(2) all citations issued to others for operation of the ATV for which registration is sought; and

(3) all cases alleging that the owner or another using the owner's ATV committed a tort while using the ATV;

(b) The Executive Director or his designee has inspected the vehicle and determined that it has all safety equipment required by section 14-5304; and

(c) The Executive Director or his designee has reviewed Tribal Court records and has determined that, within the preceding twelve months, the Tribe has not issued more than two citations to, cumulatively, the owner and any other person using any ATV registered to the Owner.

(NOTE: Amended by resolution 36-2005, adopted October 13, 2005.)

Sec. 14-5203. Display of License Plate.

Any person who operates an ATV on the Settlement shall display, in a conspicuous place where it is easily seen, a license plate or license tag issued by the Tribe.

[NOTE: Amended by resolution 36-2005, adopted October 13, 2005.]

Sec. 14-5204. Registration by Persons Under 18 Prohibited.

No person under the age of 18 years may register an ATV.

CHAPTER 3. OPERATION AND PROHIBITIONS

Sec. 14-5301. Operation Generally.

Any person operating an ATV shall operate it in a reasonable and safe manner and shall obey all applicable Tribe, federal and State traffic, safety and criminal laws, as well as all applicable rules, regulations and signs.

Sec. 14-5302. Prohibitions Generally.

It shall be unlawful to operate an ATV on any Meskwaki government property, except for those Tribal lands and other areas specifically designated for ATV use by the Tribe's land use policy, and it shall be unlawful to operate an ATV on assigned property used for residential purposes on the Settlement or trust lands without express written permission from the assignment holder, except when the registered owner of the ATV, or a member of their immediate family residing with them, is operating the ATV on lands which have been assigned to them. It shall be unlawful for an operator to operate an ATV on all other unassigned tribal lands that have not been designated for use by ATV vehicles by the Tribal Council or the Executive Director. It shall also be unlawful for any person to operate an ATV in the following manner:

(a) at a rate of speed greater than reasonable or proper under all the surrounding circumstances;

(b) in a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;

(c) while under the influence of alcohol or illicit drugs;

(d) without a functioning head light, tail light, and brake light;

(e) without a helmet if under the age of eighteen (18);

(f) between the hours of 10:00 p.m. and 6:00 a.m on public roads and in areas designated for ATV use by the Tribal land use policy, and between the hours of 8:00 p.m. and 6:00 a.m. in residential areas;

(g) with more than one (1) passenger;

(h) with any passenger under the age of 10 years;

(i) on any public roadway except as necessary to travel from the residence of the ATV owner directly to designated ATV areas;

(j) on any public roadways at a speed greater than twenty-five (25) miles per hour;

(k) to fire any firearm, arrow, dart or other instrument while on an ATV;

(l) in the ditch of a public roadway, residential driveway, or other similar area; or

(m) within 500 feet of a cemetery.

Sec. 14-5303. Minor Operators.

Minor operators shall only operate an ATV as set forth below:

(a) 14 & Under. Persons between the ages of 10 and 14 may operate an ATV only on designated Tribal lands or the ATV owner's land assignment, and only if the person is accompanied by a person 18 years of age or older on the same ATV, except when operating the ATV on the land ATV owner's land assignment, provided they are supervised by a person 18 years of age or older.

(b) 14-18. If a person 14 years of age or older, but less than 18 years of age, has satisfactorily completed an ATV safety education course recognized by the Tribe or State of Iowa, then that person may operate an ATV on designated tribal lands, those roadways leading directly to the designate lands from the family's land assignment, and on the ATV owner's land assignment.

(c) Persons under the age of 10 may operate an ATV only on land assigned to that person's family and if supervised by a person older than 18. Persons under the age of 10 may not carry passengers under the age of 18.

Sec. 14-5304. Safety Equipment.

(a) An ATV shall not be operated without suitable and effective muffling devices which limit engine noise to not more than eighty-six decibels as measured on the "A" scale at a distance of fifty feet.

(b) All ATVs shall be required to display working headlights, tail lights and brake lights at all times the vehicle is not parked.

(c) All ATVs shall have attached at the rear of the vehicle a pole extending at least 3' above the top of the fender and displaying a "visibility flag". The flag shall be red in color and shall be no smaller than 12 square inches.

[NOTE: Amended by resolution 36-2005, adopted October 13, 2005.]

Sec. 14-5305. Failure To Stop.

After receiving a visual or audible signal from any Tribal-authorized officer to come to a stop, it is a violation of this Article for an operator of an ATV to:

(a) operate the vehicle in disregard of such signal;

(b) interfere with or endanger the Tribal-authorized officer or any other person or vehicle; or

(c) increase his or her speed or attempt to flee or elude the Tribal-authorized officer.

Sec. 14-5306. Mufflers Required, Inspections

An ATV shall not be operated without suitable and effective muffling devices. The Tribal Council, Executive Director or his or her Designee may adopt rules with respect to the inspection of ATV's and testing

of their mufflers.

[NOTE: Amended by resolution 14-2010, adopted June 2, 2010]

Sec. 14-5307. Negligence.

The owner and operator of an ATV are liable for any injury or damages occasioned by the negligent operation of the ATV. The owner of an ATV shall be liable for any such injury or damage only if the owner was the operator of the ATVE at the time the injury or damage occurred of if the operator had the owner's consent to operate the ATV at the time the injury or damage occurred.

[NOTE: Amended by resolution 14-2010, adopted June 2, 2010]

Sec. 14-5308 Stopping and Inspecting Warnings.

A tribal-authorized Officer may stop and inspect an ATVE operated, parked, or stored on the Settlement to determine if the ATV is registered, or equipped as required by Chapters 2 and 3 and rules adopted by the Tribal Council, Executive Director or his or her Designee. The officer shall not inspect an area that is not essential to determine compliance with the requirements. If the officer determines that the ATV is not in compliance, the officer may issue a warning memorandum to the operator and forward a copy to the Executive Director of his or her Designee. The warning memorandum shall indicate the items found not in compliance and return a copy of the warning memorandum with the proof of compliance to the tribal police within fourteen days. If the proof of compliance is not provided within fourteen days, the owner of operator is in violation of this chapter.

[NOTE: Amended by resolution 14-2010, adopted June 2, 2010]

CHAPTER 4. VIOLATIONS, FINES, AND PENALTIES

Sec. 14-5401. Violations of this Article.

Violations of the requirements and prohibitions of Chapters 2 and 3 of this Article shall be civil violations subject to the fines imposed under Section 14-5404 and to the additional penalties for recurrent violations as authorized under Section 14-5405.

Sec. 14-5402. Violations of other law.

Nothing in this Article shall prohibit a Tribal-authorized officer from issuing a citation under any applicable State or federal law.

Sec. 14-5404. Fines.

Violation of any of the Sections under Chapters II or III of this Article shall result in a fine of not more than $500, unless an alternative penalty is expressly provided.

Sec. 14-5405. Recurrent Violations.

(a) The Court may impose such additional fines as it deems reasonable and necessary in the pursuit of the purposes of this Article for recurrent violations by any individual within one year of a plea or judgment of guilty for the same violation; provided that in no event shall such additional fines exceed twice the amount prescribed for such violation under Section 14-5404.

(b) In the administration of this Section, the Tribal Court shall recognize and give effect to recurrent violations of comparable provisions of the laws of another jurisdiction.

Sec. 14-5406. Seizure and Forfeiture.

(a) The Court may direct a Tribal-authorized officer to seize an ATV used by a violator of this Article, and hold and possess the ATV until such time as the violator fully satisfies all fines or penalties due under this Article.

(b) If a violator is convicted of three offenses of this Article in any one year period, the Tribal Court shall revoke the vehicle license of the violator and the registration of the ATV for a period of up to one year.

(c) After revocation, the violator may not operate any ATV on Tribal lands for a period of 1 year. The violator must be retrained and re-licensed and the vehicle must be re-registered before the violator may operate an ATV on tribal lands.

(d) If the violator is convicted of a fourth offense the Court may direct a Tribal-authorized officer to seize the ATV used by the violator of this Article, sell the ATV and the proceeds of that sale shall be deposited and used for the repair of Settlement lands.

Sec. 14-5406. Collection and Use of Fines.

(a) Unpaid civil fines, court costs, civil damages, or other monetary assessments lawfully imposed pursuant to this Article, once admitted or imposed by the Tribal Court, shall constitute a legal obligation owed to the Tribe and may be collected by the Tribe in any manner authorized by law for the collection of legal obligations and debts. Initiating an action in any court or tribunal to enforce any civil fine or monetary judgment imposed by the Tribe is not and shall not be construed as a waiver of sovereign immunity.

(b) Upon a showing of financial inability or hardship, the Tribal Court may, in its discretion, order payment of any lawfully imposed civil fine, court cost, civil damage or other monetary assessment to be made through the performance of community service work requirements in lieu of money payments. The performance of such community service work shall be credited at a reasonable hourly rate established by the Tribal Court.

(c) Monies collected pursuant to this Article shall be remitted to the Sac & Fox Tribe of the Mississippi in Iowa and shall be used to repair, restore, or otherwise remedy the destruction or other damage caused to tribal lands by ATVs. If such monies collected as damages cannot be reasonably or practicably applied to such repair, restoration, or remedy of destruction or other damage, the monies shall be remitted to the Tribe's general fund.

CHAPTER 5. FORUM AND PROCEDURES

Sec. 14-5501. Jurisdiction of Tribal Court.

The Tribal Court shall exercise exclusive jurisdiction over violations of this Article. The Tribal Court shall hear all such actions in accordance with the Rules of Civil Procedure, except where the specific provisions of this Article require otherwise.

Sec. 14-5502. Court Process.

Every citation issued under the authority of this Article must be filed with the Tribal Court.

Sec. 14-5503. Notice to Appear.

When a person is cited for any violation of this Article, the Tribal-authorized officer shall prepare written notice to appear in the Tribal Court. The citation shall have the effect of, and shall serve as, a summons and complaint and shall state that the person receiving a citation shall have 20 days from the date of receipt of the citation to respond either by filing a response to the citation with the Court or by paying the designated fine. The citation must be signed by the Tribal-authorized officer and shall include the name and address of the person cited, his or her driver's license number, the license number and vehicle identification number of the vehicle, the specific offense charged, and the date, time, and place that he or she is to appear in Court, if known. The Tribal-authorized officer shall retain the original of the notice and deliver a copy thereof marked "summons" to the person cited.

Sec. 14-5504. Failure to Appear.

Any person who has been duly served in accordance with Section 14-5504 may admit the violation and pay the fine set for the violation alleged or appear before the Tribal Court at the time set and defend against the alleged violation. Any person who fails to appear before the Tribal Court without just cause and who has not paid the designated fine, shall be subject to a default judgment. She or he may also be found guilty of contempt.

CHAPTER 6. AMENDMENT AND SEVERABILITY

Sec. 14-5601. Amendment.

The provisions of this Article may be amended by Resolution of the Tribal Council.

Sec. 14-5602. Severability.

If the Tribal Court finds any provision of this Article to be invalid or illegal under applicable Tribal or federal law, such provision shall be severed from the Article. The remainder of the Article shall remain in full force and effect.

TITLE 14. NATURAL RESOURCES

ARTICLE VI

MESKWAKI SETTLEMENT FLOOD DAMAGE PREVENTION & NATIONAL FLOOD INSURANCE PROGRAM

LEGISLATIVE HISTORY:
[NOTE: Except as otherwise noted, the provisions of Article VI, Title 14 were enacted on October 20, 2010 by Resolution No. 23-2010].
[NOTE: Except as otherwise noted, amending the provisions of Title 14, Article VI – formerly known as "Meskwaki Settlement Flood Damage Prevention", and adopting Article VI – now known as "Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program," Chapters 1-3, Sections 14-6101 through 14-6303, that were superseded and enacted on September 19, 2016 by Resolution No. 21-2016].

CHAPTER 1. IN GENERAL.

Sec. 14-6101. Findings and Declaration.

The aboriginal and inherent sovereign power of the Sac and Fox Tribe of the Mississippi in Iowa Tribe is vested in the Sac and Fox Tribe of the Mississippi in Iowa Tribal Council. The Tribal Council has the authority to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe by regulating the behavior of all persons within the jurisdiction of the Tribe,' and to provide for the enactment and enforcement of the laws of the Tribe. This authority includes the Council's ability to manage, develop, protect, and regulate water, minerals, timber, fish, and wildlife, and other natural resources within the Tribe's jurisdiction.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec. 14-6102. Statement of Purpose.

The flood hazard areas of the Sac and Fox Tribe of the Mississippi in Iowa are subject to frequent and severe inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare of tribal members.

The purpose of this Article is to promote the public health, safety, and general welfare of Meskwaki Tribal members; to reduce the annual cost of flood insurance; and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1) To protect human life and health;
2) To minimize expenditure of public money;
3) To minimize the need for rescue and relief efforts associated with flooding and genera1ly undertaken at the expense of the general public;
4) To minimize prolonged business interruptions;
5) To minimize damage to public facilities and utilities such as water

and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

6) To provide flood protection as set forth in the requirements of this Article in a manner that is at least as protective as the federal requirements implemented by the Tribe.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec.14- 6103. Methods of Reducing Flood Losses.

In order to accomplish its purposes, this Article includes methods and provisions for:

(a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(d) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec.14- 6104. Definitions.

Unless the context requires otherwise, as used in this Article:

(a) "Area of Shallow Flooding" means a designated AO Zone on the Flood Insurance Rate Map (Firm). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

(b) "Area of special flood hazard" means the land in the flood plain within the Settlement subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

(c) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year, also referred to as the "one-hundred (100)-year flood." Designation on maps always includes the letters A or V.

(d) “Basement” means any area of the building having its floor sub-grade (below ground level) on all sides.

(e) “Cost approach appraisal” is the process of estimating the value of property by adding to the estimated land value an appraiser’s estimate of the reproduction or replacement cost of the building less depreciation.

(f) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, located within the area of special flood hazard.

(g) “Elevated Building” means for insurance purposes, a non-basement building that has its lowest level floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

(h) “Existing Manufactured Home Park or Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

(i) “Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(j) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land area from:

(1) The overflow of inland or tidal waters and/or

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

(k) "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated the areas of special flood hazards and the risk premium zones applicable to the Settlement.

(l) "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

(m) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(n) “Historic Structure” means any structure that is:

(1) Listed individually in the Nation Register of Historic Places;

(2) Listed individually by the Tribe as contributing to the historical significance of the Tribe.

(o) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Article found at Sec. 14-6302 (a) (2) of this Article.

(p) "Manufactured home" means a structure , transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities or without a permanent foundation when connected to the required utilities. For insurance purposes the term "manufactured home" does not include recreational vehicles, park trailers, travel trailers, and other similar vehicles.

(q) “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots.

(r) "New Manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads is completed on or after the effective date of the Tribal floodplain management regulations.

(s) "New constructions" means structures for which the "start of construction" commences on or after the effective date of this ordinance.

(t) “Recreational Vehicle” is a vehicle which is,

(1) Built on a single chassis;

(2) Four-hundred (400) square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable; and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one-hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means

the first alteration of any wall ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

(u) "Structure" means a walled and roofed building including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

(v) "Substantial improvement/" (also see “Cost approach appraisal”) means:

(1) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the cost approach appraisal of the structure either:

(i) Before the improvement or repair is started; or

(ii) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(iii) Substantial Damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of replacing the structure to its pre-disaster condition.

(2) The term does not, however, include either:

(i) Any project for improvement of a structure to comply with existing tribal, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

(ii) Any alteration of a structure listed on the National Register of Historic Places or a State or Tribal Inventory of Historic Places.

(w) ”Variance" means a grant of relief from the requirements of this article which permits construction in a manner that would otherwise be prohibited by this Article.

(x) “Violation” The failure of a structure or other development to be fully compliant with the provisions of this Article. Any structure in violation shall remain in violation until the provisions of this Article are complied with. A structure or other development without an elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as documentation of compliance is provided.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec.14- 6105. Lands to Which this Article Applies.

This Article shall apply to all areas of special flood hazards within the jurisdiction of the Sac and Fox Tribe of the Mississippi in Iowa.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec.14- 6106. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Insurance Administration for Tama County Iowa in the Flood Insurance Study and Flood Insurance Rate Map {FIRM) dated November 11, 2009, FIRM Index Panel 19171CIND08B and FIRM map panel numbers 19171C0300D, 19171C0405D, 19171C0425D, 19171C0430D and 19171C0440D, are hereby adopted by reference and declared to be a part of this Article. The best available information for flood hazard area identification as outlined in Sec. 14-6203 shall be the basis for regulation until a new FIRM is issued that incorporates new data.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec.14- 6107. Penalties for Noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Article and other applicable regulations.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec.14- 6108. Warning and Disclaimer of Liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of Sac & Fox Tribe of the Mississippi in Iowa Tribal Council or the Sac & Fox Tribe of the Mississippi in Iowa, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this Article or any administrative decision lawfully made hereunder.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec. 14-6109. Nonwaiver of Immunity.

Nothing in this Article shall be construed to constitute a waiver of the sovereign immunity of the Sac and Fox Tribe of the Mississippi in Iowa, or any of its officers, employees, or agents administering or enforcing this Article.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec. 14-6110. Inclusion of Language from Other Laws.

The inclusion of language, definitions, procedures, or other statutory or administrative provisions from the laws of the State of Iowa or any other source shall not be deemed as an adoption of that law by the Tribe and shall not be deemed an action deferring to state or federal jurisdiction within the Sac & Fox Tribe of the Mississippi in Iowa Meskwaki Settlement where such state or federal jurisdiction may be concurrent or does not otherwise exist.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec. 14-6111 Severability

If any section, provision, or part of this Article shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the regulations as a whole or any section, provisions, or part thereof not adjudged invalid or unconstitutional.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec.14- 6112. Abrogation and Greater Restrictions.

This Article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

CHAPTER 2. ADMINISTRATION

Sec. 14-6201. Establishment of Development Permit.

(a) Development Permit Required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Sec. 14-6106. The permit shall be for all structures including manufactured homes, as set forth in Sec. 14-6104 (Definitions), and for all development including fill and other activities, also as set forth in Sec. 14-6104 (Definitions).

(b) Application for Development Permit.

Application for a development permit shall be made on forms furnished by the Director of Housing and may include but not be limited to plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been flood-proofed;

(3) Certification by registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Sec. 14-6302 of this Article; and

(4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Sec. 14-6202. Designation of the Housing Director as Administrator.

The Director of Housing is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Section 14-6203. Duties and Responsibilities of the Director of Housing

Duties of the Director of Housing shall include, but not be limited to:

(a) Permit Review

(1) Review all development permits to determine that the permit requirements of this Article have been satisfied.

(2) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Sec. 14-6303 of this Article are met.

(3) Review all flood plain development permits to determine that all necessary permits have been obtained from those Federal, State, Tribal or local governmental agencies from which prior approval is required

(4) Review any subdivision proposals and all development proposals or permit requests, including any proposed manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding, and to insure such proposals are consistent with the purpose of this Article, and advise the Tribal Council of any potential conflicts; including:

(i) that such development proposals minimize flood damage;

(ii) that public utilities and facilities are constructed so as to minimize flood damage;

(iii) require base flood elevation data be developed prior to permitting for any subdivision proposals or other developments for greater than fifty (50) structures or greater than five (5) acres;

(iv) require all new and substantially improved residential structures within Zone A to have their lowest floor (including basement) elevated to or above the BFE.

(5) Make determinations, within a reasonable time, as to whether a proposed floodplain development meets the applicable standards of this Article and approve or disapprove the application. For disapprovals, the applicant shall be informed in writing of the specific reasons for denial. The director may not issue permits for variances except as directed by the Tribal Council.

(b) Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with 14-6106 (Basis for Establishing the Areas of Special Flood Hazard) of this Article, the Director of Housing shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, State, Tribal or other source, in order to administer Sec. 14-6302 (Specific Standards) and Sec. 14-6303 (Floodways/Encroachments) of this Article.

(c) Information to Be Obtained and Maintained

(1) Where base flood elevation data is provided through the Flood Insurance Study or required as Sec. 14-6203(b) obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, or the elevation to which new or substantially improved nonresidential structures have been flood-proofed, and whether or not the structure contains a basement.

(2) For all new or substantially improved flood-proofed structures:

(i) Verify and record the actual elevation (in relation to mean sea level);

(ii) maintain the flood-proofing certifications required in 14-201(b)(3) of this Article; and

(iii) require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage have permanent openings designed to allow the entry and exit of flood waters.

(3) Maintain for public inspection all records pertaining to the provisions of this Article.

(d) Alteration of Watercourses

(1) It is the policy of the Sac and Fox Tribe of the Mississippi in Iowa to maintain and protect natural waters of the Tribes to the greatest extent practicable. If the Housing

Director in consultation with the Environmental & Natural Resources Director finds that the alternation of a natural waters of the Tribe is absolutely necessary to safeguard and promote the peace, safety, moral, and general welfare of the members of the Tribe, he or she may authorize the alteration of a natural waters of the Tribe subject to the final approval of the Tribal Council;

(2) If the Housing Director makes the findings pursuant to subsection above the Director must notify adjacent communities prior to any alteration or relocation of any waters of the Tribe, and submit evidence of such notification to the Federal Insurance Administration;

(3) The Director of Housing shall also ensure that maintenance is provided within the altered or relocated portion of said waters of the Tribe so that the flood carrying capacity is not diminished.

(e) Interpretation of FIRM Boundaries

Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions, best available maps shall be used, as the current FIRM, may not be accurate).

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Section 14-6204. Variance Procedure.

1) It is the policy of the Sac and Fox Tribe of the Mississippi in Iowa not to grant variances under this Chapter. However, the Housing Director does have the discretion to grant variances under the limited circumstances set forth in this section subject to the final approval of the Tribal Council.

2) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

3) Variances shall be issued only upon a determination that the variance is absolutely necessary considering the flood hazard, to afford relief.

4) Variances shall only be issued upon:

i) A showing of necessity;

ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

iii) A determination that the granting of a variance will 'not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing tribal laws or regulations.

5) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood proofing than watertight or dry-flood proofing, where it can be determined that such action will have low damage potential, complies with all other variance

criteria ,except Sec. 14-6204(1),and otherwise complies with Chapter 3, Provisions for Flood Hazard Reduction, Sec. 14-6301, et seq.

6) Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base and that the cost of flood insurance will be commensurate with the increased risk.

7) In passing upon such applications for a variance, the Sac and Fox Tribal Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article, and:

(i) the danger that materials may be swept onto other land or downstream to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage, as well as dangers from increased flood heights or velocities caused by encroachments;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual or tribe as owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(ix) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(x) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

CHAPTER 3. PROVISIONS FOR FLOOD HAZARD REDUCTION.

Section 14-6301. General Standards.

In all areas of special flood hazards, the following standards are required:

(a) Anchoring.

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (as described in FEMA's "Manufactured Home Installation in Flood Hazard Area").

(b) Construction Materials and Methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) For all new construction electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Utilities.

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

(3) New on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less).

(d) Review of Building Permits.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source Sec. 14-6203(b) applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a tribal judgment made by the tribal council and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were

superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Section 14-6302. Specific Standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Sec. 14-6106 (Basis for Establishing the Areas of Special Flood Hazard) or Sec. 14-6203(b) (Use of Other Base Flood Data) of this Article, the following provisions are required:

(a) Residential Construction.

(1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(2) For new construction a fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(b) Nonresidential Construction.

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(2) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(3) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Sec. 14-6203(e)(2)of this Article.

(4) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in Sec. 14-6302(a)(2) of this Article.

(5) Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level (e.g. a building

constructed to the base flood level will be rated as one foot below that level).

(c) Manufactured Homes

All manufactured homes to be placed or substantially improved within Zones A 1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Sec. 14-6303(a)(2) and securely anchored outside a manufactured home park or subdivision. A manufactured home placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following criteria, to be elevated such that the lowest floor is at or above the BFE and be securely anchored:

i. outside a manufactured home park or subdivision;

ii. in a new manufactured home park or subdivision;

iii. in an expansion to an existing manufactured home park or subdivision;

(d) Recreational Vehicles

Recreational vehicles placed on sites are required to either:

(1) Be on the site for fewer than one-hundred eighty (180) consecutive days;

(2) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(3) Meet the requirements for elevation and anchoring ·requirements for manufactured homes.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].

Section 14-6303. Floodways/Encroachments.

(a) Floodways.

Located within areas of special flood hazard established in Sec. 14-6106 of this ordinance are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If Sec. 14-6303(a)(1) of this article is satisfied, all new construction and substantial

improvements shall comply with all applicable flood hazard reduction provisions of Sec. 14-6301 through Sec. 14-6302 (Provisions for Flood Hazard Reduction) of this ordinance.

(3) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to structure, the cost of which does not exceed fifty (50) percent of the cost approach appraisal of the structure either, (A) before the repair, or reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the fifty (50%) percent.

Note: Where base flood elevations have been provided but floodways have not, Sec. 14-6303 should read as follows:

(b) Encroachments.

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(c) AE and A1-30 Zones with Base Flood Evaluations but No Floodways

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones Al-30 and AE of the tribe's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the tribal lands.

[NOTE: Except as otherwise noted, the provisions of Title 14, Article VI – Meskwaki Settlement Flood Damage Prevention & National Flood Insurance Program, Chapters 1-3, Sections 14-6101 through 14-6303 that were superceded and enacted on September 19, 2016 by Res. No. 21-2016].