

## **CHAPTER 17 - FISH, WILDLIFE, and RECREATION CODE**

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### 17-1.01 Intent, Purpose and Policy.

- (a) Pursuant to the powers in Article VIII of the Spokane Tribe of Indians Constitution, the Spokane Tribe's Business Council adopts the following Chapter of the Law and Order Code to regulate fishing, hunting and recreation that take place within the Tribe's regulatory jurisdiction.
- (b) The Tribal Business Council recognizes the value of the fish, wildlife and recreational resources within all the lands and waters within the Tribe's jurisdiction.
- (c) Fish, wildlife and recreational resources are an irreplaceable asset of the Spokane Tribe.
- (d) Regulation and protection of these assets is the duty of the Tribal Business Council.
- (e) Unregulated use of these resources threatens the political integrity, economic security and health and welfare of the Spokane Tribe of Indians.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

### 17-2.01 Definitions.

In this Code, unless the context requires another meaning, the following terms shall mean:

- (a) "Aft" means toward the stern or rear of a vessel.
- (b) "Authorized Enforcement Personnel" means call Spokane Tribal Park Rangers, Wildlife Committee Members, and/or the Spokane Tribal Police

Legislative History: Amended 7/7/2012; Resolu. 2012-328.

- (c) "Bilges" means the bulging, rounded part of the vessel's bottom.
- (d) "Bow" means the forepart of the vessel.
- (e) "Spokane Tribal Business Council" means the elected governing body of the Spokane Tribe of Indians of the Spokane Indian Reservation.

- (f) "Closed Season" means all of the time during the entire calendar year excepting the "open season" as specified by this Code or regulation.
- (g) "Cowl" means the revolving cover for the top of the engine or tank.
- (h) "Fish," when used as a noun herein, shall include, but not be limited to: all species of trout, salmon (Salmonidae family), small mouth bass (*Micropterus dolomieu*) large mouth bass (*Micropterus salmoides*), walleye (*Sander vitreus*), yellow perch (*Perca flavescens*), black crappie (*Pomoxis nigromaculatus*), burbot (*Lota Lota*) and any other fish species which exists within the jurisdiction of the Spokane Tribe.
- (i) "Fish," when used as an adjective or verb and its derivatives, "fishing, fished, etc." means any effort made to kill, injure, disturb, capture or catch fish.
- (j) "Forepart" means the front part of a vessel.
- (k) "Fur-bearing Animals" shall include, but not be limited to the following animals: beaver (*Castor Canadensis*), northern river otter (*Lontra Canadensis*), muskrat (*ondata zibethicus*), mink (*Mustela vison*), American marten (*KMartes Americana*), long-tailed weasel (*Mustela frenata*), short-tailed weasel (*Mustela ermine*), and bobcat (*Lynx rufus*).
- (l) "Game Animals" shall include, but not be limited to the following animals: black bear (*Ursus americanus*), white-tailed deer (*Odocoileus virginianus*), mule deer (*Odocoileus hemionus*), elk (*Cervus elaphus*), moose (*Alces alces*), snowshoe hare (*Lepus americanus*), mountain cottontail (*Sylvilagus nuttallii*).

Legislative History: Amended 7/7/2012, Resolu. 2012-328; Amended 7/14/2013; Resolu. 2013-376.

- (m) "Gunwale" means the upper edge of the side of a vessel.
- (n) "Harassment" the act of disturbing the natural setting.
- (o) "Hunt" when used as an adjective or verb and its derivative, "hunting, hunted, etc." means the act of pursuing game with the intent to kill, injure, disturb, or capture; whether as an individual or in a group. All persons in a group are deemed to be part of a hunt regardless of the number of weapons.
- (p) "Household" means all persons occupying a single dwelling, whatever the age or relationship of the persons may be.
- (q) "Migratory Game Birds" shall include, but not be limited to the following animals: Anatidae (ducks, geese, and swans), Rallidae (rails, coots, and gallinules), Scolopacidae family (shore birds).
- (r) "Mooring" means the act of securing a vessel, or in the plural, place where vessel is secured.
- (s) "Motorboat" means all vessels propelled by an engine or motor.
- (t) "Non-Member" means a person who is not an enrolled member of the Spokane Tribe whether it be a non-Indian or an Indian enrolled in another Tribe.
- (u) "Nuisance Animals" shall include, but not be limited to the following: skunk (*Mephitis mephitis*), cougar (*Puma concolor*), coyote (*Canis latrans*), badger (*Taxidea taxus*), raccoon (*Procyon lotor*), all species of ground squirrel (*Spermophilus*), northern pocket gopher (*Thomomys talpoides*),

bushy-tailed woodrat (*Neotoma cinerea*), feral housecat (*Felis catus*), feral dog (*Canis familiaris*), gray wolf (*Canis lupus*).

Legislative History: Amended 8/14/2013, Resolu. 2012-376.

- (v) "Open Season" means the time specified by regulation or this Code when it is lawful to hunt or fish.
- (w) "Port" means the left side of a vessel when facing forward.
- (x) "Reservation" means the Spokane Indian Reservation, including lands held in trust for the Spokane Tribe outside the Reservation boundaries, and all waters within the Tribe's jurisdiction.
- (y) "Starboard" means the right side of the vessel looking toward the bow.
- (z) "Stern" means the rear part of a vessel.
- (aa) "Spokane Tribal Business Council" means the elected governing body of the Tribe and maybe referred to in this Code a "Council" or "Tribal Council."
- (bb) "Tribal Member" means any person who is enrolled in the Spokane Tribe of Indians.
- (cc) "Transom" means the beam or bar over the sternpost of a vessel.
- (dd) "Upland Game Birds" shall include, but not be limited to the following birds: chukar (*Alectoris chukar*), blue grouse (*Dendragapus obscurus*), ruffed grouse (*Bonasa umbellus*), California Quail (*Callipepla californica*), ring-necked pheasants (*Phasianus colchicus*), gray partridge (*Perdix perdix*), wild turkey (*Meleagros gallopavo*).
- (ee) "Vessel" means any structure used for navigation on water including but not limited to a motorboat, sailboat, raft, canoe, and kayak.
- (ff) "Violator" means tortfeasor or in the case where a special penalty is at issue it means defendant.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328; Amended 8/14/2013, Resolu. 2012-376.

- (gg) "Spokane Tribal Waters" shall mean all waters under the jurisdiction of the Spokane Tribe or all waters within the exterior boundaries of the Spokane Indian Reservation. This includes, but is not limited to: the Spokane River from Little Falls Dam down to and including the Spokane Arm of Lake Roosevelt; Lake Roosevelt directly west of the Spokane Reservation on the Columbia Arm to its west bank; and all rivers, streams, waterways, lakes, ponds, or other bodies of water within the exterior boundaries of the Spokane Indian Reservation, and all related shorelines.

Legislative History: Codified and Amended 08/12/24, Resolu. 2024-417.

- (hh) "Drug" shall have the same meaning as the definition in RSLOC Chapter 13, Section 13-4.01(2).

Legislative History: Codified and Amended 08/12/24, Resolu. 2024-417.

#### 17-3.01 Wildlife Committee.

- (a) The Tribal Council shall appoint a committee of seven persons to act as the Wildlife Committee.

- (b) The members of the Committee will be appointed for a period of three years maintaining staggered term expiration dates.
- (c) In the absence of the appointment of a Committee by the Tribal Business Council, the Tribal Business Council shall serve as such committee.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-4.01 Qualifications of Members of the Wildlife Committee.

- (a) Members of the Wildlife Committee must be a Tribal member and residents of the Spokane Reservation, or live within a fifty-(50) mile radius of the Spokane Reservation.
- (b) Members shall be well informed on the subject of fish and game, and have a general interest and understanding of the requirements for its conservation.
- (c) A member of the Committee may be removed from office by the Council at any time.
- (d) They must not have been convicted of a violation of any law, including, but not limited to, Federal and Tribal, governing fish and wildlife within two years preceding the date of their appointment.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-5.01 Duties of the Wildlife Committee.

The Wildlife Committee shall:

- (a) Research and compile information on the status of wildlife on the Reservation.
- (b) Report the findings of such research as such information is needed by the Council.
- (c) Propose Codes and regulations for the protection, conservation and proper usage of wildlife.
- (d) The Committee shall cooperate with law enforcement officers by keeping such officers informed of rules and Codes and of suspected violators of such rules and Codes.
- (e) Investigate and propose sites for development and improvement of wildlife habitats (e.g., placement of fish screens, flooding of marshes for waterfowl, planting of feed plants, etc.).
- (f) Exercise such powers and duties as are necessary to fully carry out the provisions of this Code, or that are delegated to it by the Tribal Business Council.
- (g) The Wildlife Committee will operate under the by-laws established by tribal resolution

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-6.01 Fishing and Hunting Regulations.

- (a) The Wildlife Committee shall develop and enact, with the approval of the Tribal Council, regulations to govern hunting and fishing.
- (b) Regulations are published annually by the Wildlife Committee and are made public in local media outlets including the development of pamphlets available at Tribal headquarters.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-7.01 Establishment of Tribal Park Rangers.

The Spokane Tribal Business Council hereby establishes the Office of the Spokane Tribal Park Rangers by adoption of this code which shall have the duties enumerated in this Law and Order Code.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-7.02 Duties of Authorized Enforcement Personnel.

Duties of authorized enforcement personnel shall include:

- (a) Keeping information regarding the existing Tribal and Federal laws regarding wildlife.
- (b) Patrolling the rivers, creeks, streams, other bodies of water forests and fields where and when violators might be expected to be or are suspected of being engaged in unlawful activities.
- (c) Cooperation with Federal and/or State enforcement officers in apprehension of game violators.
- (d) Enforcing all provisions of this Chapter, and any rules and regulations promulgated there under.
- (e) Carrying out any other duties delegated under this Code or by the Tribal Business Council.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-7.03 General Enforcement Provisions.

- (a) Jurisdiction
  - (1) Except as otherwise provided in this code, the Spokane Tribal Business Council, authorizes enforcement personnel, and such other Tribal Entities as are designated by Tribal Law, to have absolute, original, and exclusive jurisdiction to regulate and adjudicate all matters pertaining to fish, wildlife and recreation activities within the Tribe's jurisdiction.
  - (2) The Spokane Tribal Court shall have exclusive jurisdiction over all violations of this chapter and any regulations adopted pursuant thereto except as this chapter or any other law reserves otherwise.
- (b) Civil Complaint
  - (1) Except as otherwise provided in this code, all violations relating to this chapter shall apply to any person and shall be considered civil in nature, and be adjudicated in the Spokane Tribal Court.
  - (2) A cause of action shall be initiated by the issuance of a summons in the form of a "notice to appear" by Authorized Enforcement Personnel, the Tribal court or the Tribal Attorney, to a violator upon probable cause to believe that a violation of this chapter has occurred.
  - (3) A petition or complaint shall be served on the violator and Tribal court, in the name of the Spokane Tribe of Indians, no more than twenty-(20) days from issuance of the summons or notice to appear and shall in short and plain statements state claims for relief.

- (c) Procedure - Except as otherwise provided in this code, the civil procedure of the Spokane Tribe shall govern all questions of procedure arising as a result of the enforcement of this code for violations relating to this chapter.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-8.01 Representation of the Tribe in Actions Arising Under this Code.

The Tribal Attorneys and Authorized Enforcement Personnel or in the case of scheduling or interest, such other counsel for the Tribe as the Tribal Council may designate, shall represent the Tribe in all actions arising under this chapter to which the Tribe is a party.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-8.02 Trespass.

- (a) Violation of any provision of the Spokane Tribe's Fish and Wildlife Code by non-members shall be considered immediate revocation of permission to enter the Reservation and may render the violator a trespasser.
- (b) It shall be a civil violation for any non-member to trespass on the Spokane Reservation.
- (c) The mandatory civil fine for trespass is \$500.00.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-8.03 Federal Prosecution.

- (a) Nothing in this Code shall be deemed to preclude the federal prosecution under 18 U.S.C. 1165 of non-members who trespass on the Reservation.
  - (1) This code has been enacted to protect the resources of the Spokane Tribe, and the taking or using of Tribal property or services contrary to the terms of this Code constitutes theft of Tribal assets.
  - (2) Nothing in this Code shall be deemed to preclude federal prosecution of violators under 18 U.S.C. § 1163 for theft of Tribal assets or any other federal law designed to protect Tribal fish, wildlife, water or other natural resources.
- (b) Any Authorized Enforcement Personnel may follow the procedure provided the Tribal Business Council to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided by this Code.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-9.01 Remuneration for Damages To Tribal Assets.

- (a) Fish and Wildlife and Recreation violations in this chapter are deemed to damage the health and welfare, political integrity and economic welfare of the Spokane Tribe of Indians.
- (b) Notwithstanding special or other fines and penalties, any violation, unlawful, or prohibited activity, under this chapter shall be subject to a civil compensatory damage assessment (CCDA) once it is adopted, but until such time the fines designated in this Code shall govern.

- (c) The Tribal Court, authorized Enforcement Personnel and Tribal Attorneys shall prepare, for approval of the Tribal Council a recommended CCDA schedule for each violation of this code or regulation which is a violation.
- (d) Each CCDA shall be compensatory for the damages to Tribal assets including but not limited to remuneration for the following:
  - (1) The cost to the Tribe for protection and regulation of the resource.
  - (2) The cost of restoring the resource.
  - (3) The cost of enforcing the particular violation.
  - (4) The loss of potential revenue to the Tribe.
  - (5) Damages for civil trespass.
  - (6) The cost of prosecution and representation.
- (e) CCDA schedules are presumed to compensate for damages to the Spokane Tribe.
- (f) CCDA schedules or alleged damages may be rebutted at the time of hearing or trial.
- (g) Punitive damages may be assessed in accordance with the civil procedure section of the Spokane Law and Order Code.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-10.01 Bond.

- (a) If a suspected violator refuses to sign a Notice to Appear, or cannot be identified by the issuing officer, and seizure of the suspected violator's property is necessary to secure the important Tribal interest of guaranteeing the presence within Tribal jurisdiction of sufficient assets of the suspected violator to secure payment of any CCDA, applicable fine, or other damages, and a likelihood that the suspected violator will leave the jurisdiction of the Spokane Tribe and not return; then authorized enforcement personnel may require posting of a bond on site in the field in an equivalent value to each CCDA, applicable fine, or other damages.
- (b) This bond may be posted by cash, check or substituted with a seizure of property in the approximate value to the CCDA(s), applicable fine or other damages in accordance with this chapter.
- (c) The suspected violator shall be issued a notice that advises them as follows:
  - (1) The suspected violator is within the personal and subject matter jurisdiction of the Spokane Tribal Court.
  - (2) That alternative methods of posting a bond exist and that the violator has chosen the method.
  - (3) Failure to appear for the hearing in the Notice to Appear will result in a default judgment and a forfeiture of the bond.
  - (4) Any property seized in lieu of cash can be redeemed by posting a cash bond with the Spokane Tribal Court.
  - (5) The right to a hearing to determine the release of the bond.
  - (6) An itemized accounting of the violations and the CCDAs, applicable fines, and other damages that the bond secures.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-10.02 Seizure and Disposition of Fish, Wildlife, Gear, and Equipment.

- (a) Seizure in lieu of other bond. Any fish, wildlife, gear, weapons, equipment, or other property the suspected violator possesses may be utilized to post bond in an amount equivalent to the cumulative CCDAs, applicable fees, and other damages for the alleged violations.
- (b) Inventory and Storage. Any gear, weapons, equipment, or other property seized under this section shall be inventoried and stored in a secure place until disposed of by order of the Tribal Court.
  - (1) The owner of the property shall be given a copy of the inventory.
  - (2) Fish and wildlife seized under this section shall be inventoried and sold.
  - (3) The proceeds of the sale shall be placed in a separate account and applied toward the bond.
- (c) Unclaimed Property. Fish, wildlife, weapons, gear or other property seized under this section and for which there is no known owner shall be inventoried and sold as provided below:
  - (1) A notice describing the property and the time and place of seizure shall be posted at prominent locations on the reservation.
  - (2) The notice shall state that persons wishing to claim the property must do so by filing a written claim with the appropriate authorized enforcement personnel within 45 days of the date the notice was posted.
  - (3) Enforcement personnel shall file a copy of the claim with the Tribal Court and shall advise the claimant of his/her right to petition the Court for release of the property.
  - (4) Property for which written claim is filed shall not be disposed of except by order of the Tribal Court.
  - (5) If property seized under this section is not claimed within 45 days of the posting of the notice, the property may be sold for the benefit of the Tribe upon order of the Tribal Court.
- (d) Presumption of Owner's Use. Unattended gear used in violation of the Code and seized under this section shall be presumed to have been placed by its owner in the location where it was seized.
- (e) Petition for Release. Any person who claims ownership of any property seized under this section may file a petition for release of the property with the Tribal Court.
  - (1) The person filing the petition may request an expedited hearing of the petition.
  - (2) The court may order release of the seized property if it finds the petitioner is the lawful owner of the property or has the right to its possession and if the property is not released the petitioner would undergo substantial hardship.
- (f) Disposition of Seized Property:
  - (1) If it is determined by the Tribal court that property shall be released the Court shall order immediate return of the property and the proceeds of the sale in connection with the violation.
  - (2) If a person is found to have violated a provision of this chapter or regulations promulgated under it, the Court may order forfeiture to the Spokane Tribe of any bond. The violator shall be given the opportunity to present evidence to the Court as to why the forfeiture would be inequitable or produce a substantial hardship.
    - (A) If the proscribed CCDA(s), applicable fines and other damages are paid in cash, or cash bond is posted by the suspected violator the property shall be returned immediately.



- (B) The Tribe may petition the Tribal Court for forfeiture of any property, seized under this section, that has not been disposed of under 17-7.05(f)(1) and 17-7.05(f)(2).
- (C) Notice of any forfeiture hearing shall be served upon any person claiming rights in the property or posted at prominent locations on the reservation if such persons are unknown.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-10.03 Bond Forfeiture To Tribe in Lieu of Civil Process.

When Authorized enforcement personnel believe an offense can be disposed of without further legal process, they may use discretion, and with the written agreement of the person to be cited, issue to that person an Agreed notice, petition, and stipulated judgment as follows:

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**AGREED FORFEITURE FOR FISHING, WILDLIFE OR RECREATION VIOLATIONS  
Spokane Tribal Law and Order Code**

This notice, petition, and stipulation for entry of judgment is for a violation of the Spokane Tribal Law and Order Code and is issued to:

\_\_\_\_\_  
(Name and Address)  
for the following violation \_\_\_\_\_ Date\_\_\_\_\_.

It is stipulated by the violator that judgment shall be entered against him/her and the judgment shall be satisfied by the forfeiture to the Spokane Tribal Court of a bond to account for damages to the Spokane Tribe of Indians in the amount of \$\_\_\_\_\_, \_\_\_\_\_dollars and \_\_\_\_\_cents, that is paid herewith to the undersigned authorized enforcement personnel.

This may be paid in cash or by check to order of Spokane Tribal Court. The undersigned violator waives their right to appeal.

DATED \_\_\_\_\_

\_\_\_\_\_  
Signature - Enforcement Personnel

\_\_\_\_\_  
Signature - Violator

Check how paid:\_\_\_\_ Cash to Officer \_\_\_\_ Check to Officer

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**HUNTING, FISHING, AND TRAPPING**

17-11.01 Fish and Wildlife Policy.

- (a) All fish and wildlife found on lands and waters within the jurisdiction of the Spokane Tribe of Indians shall be considered the property of the People of the Spokane Tribe.
- (b) This property can only be taken at such time, and in such a manner, as permitted by Tribal law.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-11.02 Enrolled Spokane Indian Hunting, Fishing, and Trapping.

- (a) All enrolled Spokane Tribal members shall be allowed to hunt, fish, and trap, unless such hunting, fishing, or trapping is prohibited by rule, regulation, or Code passed by the Tribal Business Council.
- (b) No hunting or fishing licenses shall be required of members of the Spokane Tribe of Indians, unless required by the Spokane Tribal Business Council.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.03 Special Permits.

- (a) The Tribal Council may grant special hunting and fishing permits at its discretion.
- (b) The Tribal Business Council may grant special permits for the collection of scientific specimens at its discretion.

Legislative History: Readopted 8/01/06, Resolu. 2006-524.

#### 17-11.04 Hunting and Fishing-Spouses and Descendants.

- (a) Non-members who are married to Spokane Tribal members, and first generation children of Spokane Tribal members, are allowed to hunt and fish as permitted by rule, regulation, or Code passed by the Spokane Tribal Business Council.
- (b) They shall, however, obtain a courtesy permit, harvest tags, and current regulations to do so at the Tribal Office in Wellpinit.
- (c) Failure to obtain a courtesy permit or harvest tags is a civil violation of this section and may result in a civil penalty of \$200 per incident.

Legislative History: Amended 8/7/2012; Resolu. 2012-328; Amended 8/14/2013; Resolu. 2013-376; Amended 12/17/2013; Resolu. 2014-075, Amended 2/14/2014; Resolu. 2014-131.

#### 17-11.05 Hunting and Fishing; Non-members.

- (a) Notwithstanding Section 17-11.04 above, no non-members shall not hunt on the Spokane Reservation or any lands under the Tribe's regulatory jurisdiction.
- (b) However, if the Spokane Tribe negotiates reciprocal hunting and fishing rights with another Tribe, members of that Tribe shall be allowed to hunt and fish in accordance with that agreement.
- (c) Non-members wishing to fish on the following waters under the jurisdiction of the Spokane Tribe must obtain fishing permits which cost and duration shall be determined by Tribal regulation:
  - (1) On the Spokane River from Little Falls Dam down to and including the Spokane Arm of Lake Roosevelt;
  - (2) On Lake Roosevelt directly west of the Spokane Reservation on the Columbia Arm to its West bank;
  - (3) These permits shall not authorize fishing on any other waters under the jurisdiction of the Spokane Tribe.

- (4) Permits shall be obtained from the Public Safety Building in Wellpinit, uniformed Tribal officers, and other locations designated by the Tribe to sell permits.
- (d) Failure to obtain a permit is a civil violation of this section and may result in a civil penalty of \$200 per incident.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.06 Deer Limit.

- (a) It shall be unlawful for any household, combined, to kill more than six deer during any calendar year.
- (b) In cases of doubt, the Tribal Judge shall determine the members of a given family in accordance to Tribal customs.
- (c) A violation of this section may result in a civil fine of \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.07 Elk and Moose Hunting.

- (a) It shall be unlawful to violate any law, rule, or regulation adopted for the protection of elk or moose, or to kill an elk or moose, except during open season established by rule or Resolution, and while in possession of a valid tag.
- (b) A violation of this section will result in a mandatory civil fine of \$2500.

Legislative History: Revised 07/29/08, Resolu 2008-443; Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.08 Unlawful To Sell Meat or Fish.

- (a) It shall be unlawful to sell any meat of game animals or fish killed, caught, or taken by any person on the Spokane Indian Reservation.
- (b) Game animal meat and fish caught off-reservation sold by non-members shall only occur if a permit is issued by the Spokane Tribal Council which shall charge a reasonable rate for the permit.
- (c) A violation of this section will result in a mandatory civil fine or \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.09 Spotlighting.

- (a) It shall be unlawful for anyone to hunt with a spotlight or any other kind of artificial light on the Spokane Reservation, unless approved by Tribal Business Council.
- (b) A violation of this section will result in a mandatory civil fine of \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.10 Closed Season on Fur Bearing Animals.

- (a) Fur-bearing animals, except nuisance animals, shall be harvested by permit only.
- (b) Permits shall be granted by the Wildlife Committee if these species occur in sufficient number to warrant an open season.
- (c) A violation of this section will result in a mandatory civil fine of \$250.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.11 Wild Turkey Season.

- (a) It shall be unlawful to kill wild turkeys at any time, except during open seasons established by the Tribal Business Council.
- (b) A violation of this section will result in a mandatory civil fine of \$250.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.12 Unlawful To Waste Game or Fish.

- (a) It shall be unlawful to unduly waste and abandon useful or edible portions of game and fish, to feed such game to dogs, pigs, etc., or to throw away or dispose of sizeable quantities of fish, game animals or migratory and upland birds.
- (b) A violation of this section will result in a mandatory civil fine or \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.13 Camping and Hunting Groups—Limitations.

- (a) While hunting groups may camp and hunt on the Spokane Reservation, it shall be unlawful for such camping or hunting group to exceed ten adult persons.
- (b) Tribal Enforcement Personnel shall have the authority to reasonably decide what constitutes a camping or hunting party.
- (c) A violation of this section will result in a mandatory civil fine or \$100.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.14 Use of Dogs for Hunting.

- (a) No Spokane Indian, group of Spokane Indians, or non-members shall ever utilize more than four dogs.
- (b) Dogs are not to be considered seize able equipment.
- (c) Dogs can only be used in the hunting of migratory and upland game birds.
- (d) The use of dogs for any other hunting requires a special permit from the Spokane Tribal Business Council.
- (e) A violation of this section will result in a mandatory civil fine of \$200.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-11.15 Hunting from Snow Vehicles, and Boats.

- (a) It shall be unlawful for any person to operate a snowmobile or equivalent machinery for the purpose of hunting or chasing game animals on the Spokane Reservation.
- (b) It shall also be unlawful to carry firearms on the person or vehicle while operating a snowmobile, except by written permission from the Tribal Council to hunt predatory animals.
- (c) It shall be unlawful to fire a gun from a vessel while under propulsion.
- (d) A violation of this section will result in a mandatory civil fine of \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-11.16 Possession of Illegal Game or Fish.

- (a) It shall be unlawful for any person to have in their possession any game, bird, or fish that said person knows or should under the circumstances know was killed or taken in violation of any of the provisions of this Code.
- (b) A violation of this section will result in a mandatory civil fine of \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-11.17 Hunting While Intoxicated.

- (a) It shall be unlawful for any person to hunt while under the influence of drugs or intoxicating liquor.
- (b) A violation of this section will result in a mandatory civil fine of \$200.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-11.18 Interference with Game Control Signs.

- (a) It shall be unlawful for any person to destroy, tear down, shoot at, deface or erase any printed matter or signs placed or posted in the enforcement of Tribal hunting and fishing regulations.
- (b) A violation of this section will result in a mandatory civil fine of \$200.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-11.19 Harassment of Wildlife.

- (a) It shall be unlawful to harass any and all wildlife utilizing, motorized vehicles, artificial light, or instruments of disruption.
- (b) A violation of this section will result in a mandatory civil fine of \$200.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

17-11.20 Permit Needed To Hunt or Take Bald or Golden Eagles.

- (a) It shall be unlawful for any person to hunt or take bald or golden eagles within the jurisdiction of the Spokane Tribe unless that person first obtains a special permit from the Spokane Tribal Business Council allowing the permitted individual to move forward in the Federal permitting process for such hunting.
- (b) A violation of this section will result in a mandatory civil fine of \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-11.21 Permit Needed To Take Eagle Nests or Eggs.

- (a) It shall be unlawful to take eagle nests or eggs within the jurisdiction of the Spokane Tribe unless that person first obtains a special permit from the Spokane Tribal Business Council allowing the permitted individual to move forward in the Federal permitting process.
- (b) The Tribal Council shall issue permits only for extraordinary religious or cultural reasons and then only rarely.
- (c) A violation of this section will result in a mandatory civil fine of \$500.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-12.01 Special Penalties for Violation.

A special penalty, including all costs incurred in pursuing the penalty, shall be assessed, where allowed by law, for violations in accordance with the following schedule:

- (a) **For each violation of Section 17-8.05 [sic] (Elk and Moose Hunting Season):**
  - (1) A minimum mandatory period of 30 days in jail, not to exceed 90 days and a mandatory fine of \$2500 plus the loss of all hunting and fishing rights for a period of three years upon conviction for Tribal members; and
  - (2) A mandatory civil penalty of \$5000 plus the loss of all hunting and fishing privileges for a period of three years upon first violation and loss of all hunting and fishing privileges in perpetuity for the second violation for spouses and first generation descendants.
- (b) **For each violation of Sections 17-11.10 (Fur Bearing Animals) and 17-11.11 (Wild Turkey):**
  - (1) A period of not more than 90 days in jail or a fine not to exceed \$250 or both for Tribal members; and
  - (2) A mandatory civil penalty of \$500 upon violation for spouses and first generation descendants.
- (c) **For each violation of Sections 17-11.20 and 17-11.21 (Bald Eagle):**
  - (1) no more than six months in jail and a mandatory fine of \$500. For the first conviction a jail sentence of 30 days is mandatory, for the second conviction, a six month sentence is mandatory.
- (d) For all other wildlife violations pursuant to section 17-8 a special penalty shall be assessed in accordance with Chapter 14 section 14 (14-14.01) for each violation.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 7/29/2008, Resolu. 2008-443. Amended 8/7/2012; Resolu. 2012-328.

#### 17-12.02 Accomplice Liability.

All accomplices to any violation of this chapter shall be considered to commit the same violation as the actual violator and shall be liable for the damages or special penalties.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-13.01 Camping and Picnicking.

Tribal permits for camping or picnicking on lands within the jurisdiction of the Spokane Tribe shall be made available for sale to non- members of the Spokane Tribe as follows and prices shall be determined by regulation of the Spokane Tribal Council:

- (a) Said permits shall allow camping and picnicking in shoreline areas designated by the Tribe for camping or picnicking.
- (b) A marine sanitation device is required for all dispersed camping and picnicking.
- (c) Daily permit will allow daylight picnicking or overnight camping for a specified 24-hour period beginning at the time of purchase.
- (d) Tribal member shall be allowed one complementary family guest permit for non-member guest families if and only if the enrolled member is picnicking at an adjacent site.
- (e) A fishing permit shall not act as a camping/picnicking permit nor shall a camping/picnicking permit act as a fishing permit.
- (f) Non-members shall not possess firearms or all-terrain vehicles at any designated camping/picnicking site.
- (g) Failure to obtain the proper permits as required by this section will result in a mandatory civil fine of \$100.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

### **Boating and Water Use Activities**

#### 17-14.01 Boating Privilege.

- (a) Boating on waters under the jurisdiction of the Spokane Tribe is considered a privilege and pursuant to that privilege the operator must comply with this Code or be in violation of this code and subject to civil remedies or criminal remedies where allowed.
- (b) Boating on waters under Tribal jurisdiction is deemed consent to Authorized Enforcement Personnel to stop and board any vessel.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.02 Inspections and Observations.

- (a) Authorized Enforcement Personnel may at any time stop and/or board a vessel to examine documents, licenses or permits relating to operation of the vessel, and to inspect such vessel to determine compliance with regulations pertaining to safety equipment and operation.
  
- (b) Any Authorized Enforcement Personnel who observes a vessel being operated:
  - (1) without sufficient lifesaving or firefighting devices;
  - (2) in an overloaded or unsafe condition;
  - (3) in any other hazardous or unsafe circumstances; or
  - (4) in a manner which violates this or any other Chapter of the Law and Order Code of the Spokane Tribe of Indians, may direct the operator to take immediate and reasonable steps necessary for the safety of those aboard the vessel, including, but not limited to directing the operator to:
    - (A) correct a hazardous condition immediately; or
    - (B) proceed to a mooring, dock, or anchorage; or
    - (C) suspend further use of the boat until a hazardous condition is corrected.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.03 Prohibited Operations.

The following are prohibited in all Spokane Tribal Waters and considered unlawful:

- (a) Operating a vessel, or knowingly allowing another person to operate a vessel, in a reckless or negligent manner, or in a manner so as to endanger a person or property.
  
- (b) Operating a vessel under the influence of alcohol or controlled substance.
  
- (c) Failing to observe restrictions established by a regulatory marker.
  
- (d) Operating a vessel in excess of 5 mph or creating a wake in areas where prohibited.
  
- (e) Operating a vessel within 100 feet of a diver's marker, or any person in the water.
  
- (f) Allowing a person to ride on the gunwales, transom, or on the deck over the bow of a vessel propelled by machinery, operating in excess of 5 mph; provided, however, that the provisions shall not apply under the following circumstances:
  - (1) When that porting of the vessel was designed and constructed for the carrying of passengers safely at all speeds.
  - (2) When the vessel is being maneuvered for anchoring, mooring, or casting off moorings.
  
- (g) Attaching a vessel to or interfering with a marker, navigating buoy or other navigational aid.
  
- (h) Using trailers to launch or recover vessels, except at designated launching sites.
  
- (i) Operating a vessel at a speed greater than that which will permit the operator to bring said vessel to stop to avoid injury to persons or property that is unreasonable for the conditions present. The operator of a vessel is responsible for its wake at all times and shall be responsible for damages caused by it.



- (j) Overloading a vessel beyond its safe carrying capacity rating as referenced on the vessel's capacity plate, taking into consideration weather and other normal operating conditions. Capacity plates state the boats maximum weight capacity, maximum person capacity, and for outboard powered boats, the maximum horsepower.
  - (1) Capacity plates are required on all boats less than 20 feet in length constructed on or after November 1, 1972.
  - (2) Exceptions to this requirement are sailboats, canoes, kayaks, and inflatable boats.
- (k) Any violation of 17-14.03(a) will result in a mandatory civil fine of \$100 per incident.
- (l) Any violation of 17-14.03(b) will result in a mandatory civil fine of \$500 per incident.
- (m) Any violation of 17-13.03(c)-(j) will result in a mandatory civil fine of \$100 per incident.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.04 Required Equipment on Water-Going Vessel.

- (a) It shall be unlawful to operate a water going vessel without proper equipment in accordance with this section 17-14 below.
- (b) Any violation of 17-14 will result in a mandatory civil fine of \$100 per incident.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.05 Personal Flotation Devices (P.F.D).

- (a) P.F.D. requirements for vessels under 16 feet: All boats less than 16 feet in length and all canoes and kayaks, must have 1 type I, II, III or IV P.F.D. of a suitable size for each person on board, including any person being towed by a vessel.
- (b) P.F.D. requirements for vessels 16 feet and over: All boats 16 feet or over in length must have 1 type I, II, or III (wearable) P.F.D. of a suitable size for each person on board; including persons being towed by a vessel. Also, 1 type IV (throwable) P.F.D. must be aboard each boat. Canoes and kayaks are not required to have a type IV P.F.D.
- (c) P.F.D. Approval - Access Condition:
  - (1) All P.F.D.'s shall be approved by the U.S. Coast Guard.
  - (2) All P.F.D.'s shall be placed on vessels so as to be readily accessible in case of an emergency. Examples of P.F.D's not readily accessible are those located in a locked locker and those stored under an anchor, anchor line, blankets, or enclosed in the manufacturer's plastic container.
  - (3) All P.F.D.'s shall be in good serviceable condition.
  - (4) Type IV P.F.D.'s shall be immediately available on vessels 16 feet or more in length.
  - (5) All P.F.D.'s shall be suitable size for each person on board.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.06 Fire Extinguishers.

- (a) All motor boats less than 25 feet in length shall be equipped with 1 U.S. Coast Guard approved type B-1 fire extinguisher.

- (b) All motor boats between 25 feet in length and 40 feet in length shall be equipped with at least 2 U.S. Coast Guard approved type B-1 fire extinguisher or 1 U.S. Coast Guard approved type B-11 fire extinguisher.
- (c) All motorboats greater than 40 feet in length shall be equipped with at least 3 U.S. Coast Guard approved type B-1 fire extinguisher; or 1 U.S. Coast Guard approved type B-1 fire extinguisher and 1 U.S. Coast Guard approved type B-11 fire extinguisher.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.07 Additional Safety Equipment.

Every Motorboat:

- (a) 16 feet or over shall be equipped with an efficient whistle or other sound-producing appliance, and;
- (b) Shall have 2 or more ventilators with cowls or the equivalent capable of removing gases from bilges in any compartment containing gasoline engines or gasoline tanks.
  - (1) Motorboats so constructed as to have the greater portion of the bilges under the engine and fuel tanks open and exposed to the natural atmosphere at all times are not required to be fitted with such ventilators.
- (c) Shall have the carburetor of any inboard gasoline engine equipped with a device for arresting backfire. Such device shall be of the type approved by the Commandant, U.S. Coast Guard.
- (d) The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used to muffle the noise of the exhaust in a reasonable manner.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.08 Navigation Lights.

- (a) All non-motorboats afloat from sunset to sunrise or at such times as vision is less than 500 feet shall be equipped with a hand lantern or flashlight showing a white light which shall be temporarily exhibited in sufficient time to prevent a collision.
- (b) All motorboats 25 feet or less in length underway from sunset to sunrise or at such times as vision is less than 500 feet shall be equipped with the following lights:
  - (1) One white light aft to show all around the horizon (32 points in the compass or 360 degrees).
  - (2) One combination light on the forepart of the vessel lower than the white light aft, showing a green light to the starboard and a red light to the port side of the vessel, each showing 10 of the compass or 112.5 degrees.
- (c) All motorboats greater than 25 feet in length underway from sunset to sunrise or at such times that the vision is less than 500 feet shall be equipped with the following lights:

- (1) One white light as far forward as possible to show an unbroken light 20 points of the compass or 225 degrees with 10 points or 112.5 degrees on each side of the vessel.
- (2) One white light aft to show all around the horizon (32 points in the compass or 360 degrees) and higher than the white forward light.
- (3) One red light on the port side and 1 green light on the starboard side showing 10 points on the compass or 360 degrees with a screen installed to prevent lights from being seen across the bow.
- (4) Every white light required in this section shall be carried on the centerline of the vessel, except that the all-around white light aft on a motorboat of less than 25 feet in length may be carried off the centerline.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.09 Towing of Persons Behind Vessel.

- (a) Any towing of a person by vessel is prohibited, except in designated waters and in accordance with this section.
- (b) A vessel which has in tow a person or persons shall have at least an operator and an observer.
  - (1) The observer shall continuously observe the person or persons being towed and shall display a flag when the towed person is in the water.
  - (2) Such flags shall be a bright red or brilliant orange color, measuring at least 12" inches square mounted to a pole not less than 24" inches long and displayed as to be visible from every direction.
- (c) The following is prohibited:
  - (1) Towing between the hours of sunset and sunrise.
  - (2) Towing a person who is not wearing a Coast Guard approved Personal Flotation Device Or within 100 feet of any person in the water, diver's marker.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.10 Age Requirement To Operate Motorboat.

- (a) It shall be unlawful for a person under the age of 16 years to operate a motorboat unless accompanied by a person who is legally capable of operating such motorboat.
- (b) It shall be unlawful for a minor 10 years of age or under to operate or to be permitted to operate a motorboat.
- (c) Violations of this section will result in a mandatory civil fine of \$200 per incident.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.11 Duty of Operator Involved in Collision, Accident, or Other Casualty-Immunity from Liability of Person Rendering Assistance.

- (a) All incidents involving an accident, collision, fire, injury, or other casualty shall be reported to Authorized Enforcement Personnel.
- (b) The operator involved in a collision, or other casualty, to the extent the operator can do so without serious danger to the operators own vessel or persons aboard, shall render all practical and

necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident.

- (1) Assistance rendered under this section shall not be evidence of the liability of such operator for the collision, accident, or casualty.
  - (2) The operator shall give his or her name, address, and identification of the operators vessel to any Authorized Enforcement Personnel, any person injured (or their representative), and to the owner of any property damaged.
  - (3) These duties are in addition to any duties otherwise imposed by law.
- (c) Any person who complies with this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act of omission providing or arranging salvage, towage, medical treatment, or other assistance where the assisting person acts as any reasonable prudent person would have acted under the same or similar circumstances.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.12 Motorboat Crossing.

- (a) When 2 motorboats are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall yield the right of way to the other.
- (b) When a motorboat and a sailboat are proceeding in such a direction as to involve risk of collision, the motorboat shall yield the right of way to the sailboat, except when the sailing vessel is overtaking the motorboat from behind.
- (c) Whenever, under this chapter, 1 of the 2 vessels is to yield the right of way, the other is to maintain its course and speed.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.13 Overtaking Vessels.

- (a) Notwithstanding anything contained in this chapter, every vessel overtaking another, shall keep out of the way of the overtaken vessel.
- (b) Every vessel coming upon another vessel from any direction more than 2 points aft her beam; that is, in such a position, with reference to the vessel which it is overtaking that at night it would be unable to see the other vessel's sidelights, shall be deemed to be overtaking vessel, and no subsequent alteration of the bearing between the 2 vessels shall make the overtaking vessel a crossing vessel within the meaning of this Code or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.
- (c) If the overtaking vessel is uncertain whether she is forward or aft from this direction from the other vessel, she should assume that she is overtaking the vessel and shall yield the right of way.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.14 Right of Way–Fishing Vessel.

- (a) Vessels underway shall yield the right of way to vessels fishing with lines in the water.

- (b) This section shall not give to any vessel or boat engaged in fishing the right of totally obstructing a channel used by vessels other than fishing vessels such that other vessels are denied passage.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.15 Garbage.

- (a) It shall be unlawful for any person, while on any watercraft or any person while on the shores or on any structure extending onto a waterway, to throw or discard into the waters any waste, debris, oil, garbage or other fluids or solid materials which in any manner tend to pollute said water or on the shores.
- (b) Violations of this section will result in a mandatory civil fine of \$200 per incident and may be additionally punished under the Spokane Tribe's Pollution Prevention Code.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.16 Swimming and Bathing.

The following are prohibited:

- (a) Swimming or bathing in locations designated as closed.
- (b) Diving from vessels which are moving.
- (c) Authorized Enforcement Personnel may prohibit the use of flotation devices, glass containers, kites, or incompatible sporting activities within locations designated as swimming beaches.
- (d) The Spokane Tribe of Indians does not provide lifeguards on any Tribal waters.
  - (1) A parent or adult guardian must be present when children under the age of 16 are on the beach or in the water of designated swimming beaches and must supervise the children's activity.
  - (2) Voice and visual contact must be maintained with the child.
- (e) Violations of this section will result in a mandatory civil fine of \$100 per incident.

Legislative History: Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.

#### 17-14.17 Operation of Vessel Under the Influence of Intoxicating Liquor or Any Drug.

- (a) It is prohibited for any person in Spokane Tribal Waters to operate a vessel under the influence of intoxicating liquor or any drug. A person is considered to be under the influence of intoxicating liquor or any drug if, within two hours of operating a vessel:
  - (1) The person has an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood performed according to generally accepted methods and by an individual possessing appropriate training and skills; or
  - (2) The person has a THC concentration of 5.00 or higher as shown by analysis of the person's blood according to generally accepted methods and by an individual possessing appropriate training and skills; or
  - (3) The person is under the influence of or affected by intoxicating liquor or any drug; or

- (4) The person is under the combined influence of or affected by intoxicating liquor and any drug.
- (b) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of the Tribe, or any other jurisdiction, shall not constitute a defense against any charge of violating this section. This includes affirmative defenses under RSLOC Chapter 13, Section 13-4.04.
- (c) Any person who operates a vessel within Spokane Tribal Waters is deemed to have given consent to a test or tests of their breath and blood for the purpose of determining alcohol or drug concentration in their breath or blood if arrested for any offense when at the time of the offense, the arresting officer has reasonable grounds to believe the person was operating the vessel while under the influence of intoxicating liquor or any drug, or any combination of intoxicating liquor and any drug.
- (d) An arresting officer may administer field sobriety tests when circumstances permit.
- (e) The officer shall warn the person that the privilege to operate a vessel in Spokane Tribal Waters may be revoked or suspended if the person refuses to submit to testing of their breath or blood, and that such refusal to take a test may be used as evidence in a criminal trial.
- (f) A violation of this section is punishable by a period of incarceration of up to one year and a fine of up to five thousand dollars.
- (g) For the purposes of this section "THC concentration" means nanograms of delta-9 tetrahydrocannabinol per milliliter of a person's whole blood.
- (h) Nothing in this section precludes a law enforcement officer from obtaining a person's blood to test for alcohol, cannabis, or any drug, pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law. Any blood drawn for the purpose of determining the person's alcohol, cannabis levels, or any drug, is drawn pursuant to this Section when the officer has reasonable grounds to believe that the person is in physical control or driving a vehicle under the influence or in violation of this Section.

Legislative History: Codified and Amended 08/12/24, Resolu. 2024-417.

#### 17-15.01 Severability.

If any provisions of this Chapter or its application to any person or circumstances is held invalid, the remainder of the Chapter or the application of the provision to other persons or circumstances shall not be affected.

Legislative History: Amended 9/2/93, Resolu. 93-217; Readopted 8/01/06, Resolu. 2006-524. Amended 8/7/2012; Resolu. 2012-328.