

CHAPTER 11 - LOGGING, BURNING, WOODCUTTING, AND HARVESTING

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Resolution 03/06/17B

CHAPTER 11 - LOGGING, BURNING, WOODCUTTING AND HARVESTING

11.1 SECTION 1: JURISDICTION

11.1.1 Unless otherwise specified, this Chapter shall apply to all relevant activities referenced in Sections 11.3-11.9 of this Chapter within the exterior boundaries of the Red Cliff Reservation.

11.2 SECTION 2: DEFINITIONS

As used in this Ordinance, the following phrases and words shall have the following definitions:

11.2.1 “Asparagus” shall refer to any plant of the genus *Asparagus*, of the lily family, especially *A. officianalis*, cultivated for its edible shoots.

11.2.2 “Bark” shall refer to the tough exterior layer of the stems and roots of trees, shrubs, and other woody plants. This includes all tissues outside the vascular cambium.

11.2.3 “Best Management Practices (BMPs)” shall refer to the methods or techniques found to be the most effective and practical means of achieving an objective while making the optimum use of the resource.

11.2.4 “Boughs” shall refer to a branch of a conifer tree, especially one of the larger or main branches of a conifer tree less than 2 inches in diameter.

11.2.5 “Campfire” shall be defined as a contained fire measuring no more than 3 feet x 3 feet x 3 feet.

11.2.6 “Commercial Harvesting” shall refer to the harvesting of a natural resource and/or the raw product of which is for commercial sale, but shall not include natural resource harvesting for subsistence and cultural purposes.

11.2.7 “Commercial Logging” shall refer to any timber harvest that is for commercial sale.

11.2.8 “Diameter At Breast Height (DBH)” shall refer to diameter at breast height (DBH) which is the standard and most common method of measuring tree dimension apart from tree height. DBH refer to the diameter of tree trunk measured at breast level; breast height is measured at 4.5 feet above ground.

11.2.9 “Dry Wash” shall be defined as an incised, hillside gullies that are experiencing active erosion. These areas only receive surface water flow through runoff and are not considered streams.

11.2.10 “Duration” refers to the moment of time from when a fire is ignited to the time the fire is completely extinguished.

- 11.2.11 “Edible fruits” shall refer to fleshy fruits from plants including but not limited to apples, plums, pears, blueberries, raspberries, blackberries, juneberries and strawberries that are harvested for human consumption.
- 11.2.12 “Edible nuts” shall refer to walnuts, hickory nuts, acorns and other similar nuts from trees and shrubs.
- 11.2.13 “Fire” refers to combustion or burning. Hot coals and/or smoke constitute fire and can be cited individually as legal determinations of fire.
- 11.2.14 “Firewood” shall refer to wood which use is to be burned as fuel for warming or cooking.
- 11.2.15 “Gathering” shall refer to obtaining, securing, or attempting to obtain or secure possession of any forest product or any part thereof.
- 11.2.16 “Ginseng” shall refer to the roots, seeds or other parts of wild American ginseng (*Panax quinquefolius*)
- 11.2.17 “Landing” shall refer to the area where logs are transported via skid trails, piled up, and eventually loaded onto trucks to be hauled away.
- 11.2.18 “Leeks” shall refer to the genus *Allium*, which is a vegetable that is similar to onion and garlic.
- 11.2.19 “Logger’s Cord” shall be defined as a stack of cut wood measuring 4 feet high x 4 feet wide x 8 feet long.
- 11.2.20 “Logging Road” shall refer to any forest access road constructed for the purpose of logging activities.
- 11.2.21 “Miscellaneous Forest Products” shall refer to any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in both forested and non-forested natural ecosystems, including but not limited to mushrooms, leeks, fungi, nuts, fruits, medicinal plants, moss, and ginseng.
- 11.2.22 “Mushroom” shall refer to the fleshing fruiting body of a fungus.
- 11.2.23 “Navigable Waterway” shall refer to any body of water that (1) is subject to the ebb and flow of the tide or seiche, (2) connects with a continuous interstate waterway, (3) has navigable capacity, and/or (4) is actually navigable.
- 11.2.24 “Non-Timber Forest Products” shall mean forest products which are any product or service other than timber that is produced in forests, including but not limited to birch poles, sap, lodge poles, boughs, and bark.
- 11.2.25 “Pole” shall refer to any tree that is less than 5 inches DBH.
- 11.2.26 “Present” shall refer to permit holder or his/her designee being outdoors and visible if sought from a vantage point directly adjacent to the fire.

- 11.2.27 “Protected Species” shall refer to those rare and threatened species listed under RCCL 8.6.
- 11.2.28 “Riparian Buffer” shall refer to the vegetated area surrounding a waterbody where trees cannot be harvested.
- 11.2.29 “Seiche” shall refer to the resulting sloshing effect of Lake Superior waters being pushed to the far shores of the lake when prevailing winds or weather fronts occur.
- 11.2.30 “Skid Trail” shall refer to any temporary road utilized by loggers to move timber from the tree stump to a landing.
- 11.2.31 “Small Scale Harvest Activity” shall refer to the harvesting of miscellaneous forest products for the purposes of personal use or consumption.
- 11.2.32 “Tree” shall refer to any tree or sapling which is 5 inches or more at DBH.
- 11.2.33 “Watercress” shall refer to Nasturtium officinale, of the mustard family, usually growing in clear, running streams and having pungent leaves used consumption.
- 11.2.34 “Woodcutting For Home Use” shall refer to the cutting of wood for one’s own personal use for home heating by woodstove or fireplace, or for campfire wood.

11.3 SECTION 3: EMERGENCY ORDERS AND CLOSURES

- 11.3.1 When a logger is violating permit conditions or regulations promulgated herein and irreversible environmental damage will result, the PAC Team and/or Tribal Council may order the cessation of logging.
- 11.3.2 Upon request to the Zoning Administrator by the logger or other affected party, the PAC Team shall grant a hearing on the emergency order within 5 days of receipt of the application.
- 11.3.3 The Red Cliff Environmental Department, in consultation with Protective Services, may impose a temporary ban on fires with the exception of ceremonial fires which comply with section 11.9.3.

11.4 SECTION 4: COMMERCIAL LOGGING AND LOGGING ROADS

- 11.4.1 No commercial logging operation shall occur unless the logger holds a Commercial Logging Permit. Commercial Logging Permits shall be issued by the Natural Resources Department using the PAC approval process set forth in RCCL Chapter 37. Commercial Logging Permits may require additional approval by Tribal Council when deemed necessary by PAC.
- 11.4.2 All such permits shall be subject to timber cutting restrictions as may be promulgated by the PAC Team in order to protect the environment.

- 11.4.3 Such permits shall not be required where the logging is clearly incidental to the clearing of the land for residential, business or agricultural purposes and the site to be logged is no larger than 1.25 acres (RCCL 18.14.1), such logging however, is subject to regulations contained in the zoning ordinance (RCCL Chapter 37).
- 11.4.4 The fee for a member permit shall be \$250.00. The fee for a non-member permit shall be \$750.00.
- 11.4.5 No logging activities shall occur within the riparian buffer zone, which consists of: 150 feet of the horizontal distance from the Lake Superior high water elevation and 100 feet of horizontal distance from the stream and not within the 100 year flood plain of a pond, lake, stream or river (37.6.10). Exemptions will only be granted through the PAC approval process as part of the Tribe's Emerald Ash Borer Management Plan.
- 11.4.6 No logging road, skid trail, or landing shall be constructed unless the logger holds a Commercial Logging Permit.
- 11.4.7 Logging roads must be planned in advance of logging activities and plans must be submitted with the Commercial Logging Permit application for approval through the PAC approval process set forth in RCCL Chapter 37.
- 11.4.8 All skid trails and logging roads shall be kept to areas with less than a 15% grade, those on grades greater than 15% shall not exceed 300 feet in length.
- 11.4.9 All logging roads and skid trails must incorporate drainage and soil stabilization methods imposed by the PAC Review Board and the Commercial Logging Permit.
- 11.4.10 Logging road stream crossings must utilize BMPs intended to limit stream channel changes, erosion, sedimentation, and disruption of aquatic life as specified by the PAC Review Board and Commercial Logging Permit conditions. The Natural Resources Department may impose additional conditions for stream crossings of navigable waterways to mitigate effects of the crossing.
- 11.4.11 Machinery use in or near dry washes is prohibited at all times.
- 11.4.12 Landing areas must be located on firm, well-drained soils or on frozen ground. Existing landings shall be utilized when appropriate and inactive landings must be revegetated.

11.5 **SECTION 5: TRIBAL WOODCUTTING FOR HOME USE**

- 11.5.1 No cutting of live trees for home use shall be carried on unless a tribal member acquires a Tribal Woodcutting Permit from the Environmental Department.
- 11.5.2 Harvesting of any living tree must occur within the designated woodcutting lot identified in the Woodcutting Permit, unless special permission has been granted by the Environmental Department.
- 11.5.3 A Tribal Woodcutting Permit shall be issued to only one person per household. A household is defined as all those persons residing in one living unit whether or not they are related by blood or marriage. Woodcutting Permits must be carried at all times while harvesting wood. There shall be a limit of 5 logger's cords of wood per household per year.
- 11.5.4 Tribal Woodcutting Permits shall be subject to such timber cutting regulations as may be promulgated by the Conservation Commission, (RCCL 3.3.10), or the Forestry Department (RCCL 3.3.11).
- 11.5.5 No person cutting wood pursuant to a Tribal Woodcutting Permit shall sell any wood so cut, to any person(s) residing off the Reservation, nor to non-Indian person(s) residing on the Reservation.
- 11.5.6 Harvesting of standing dead trees, for firewood only, shall be allowed without a Woodcutting Permit.

11.6 **SECTION 6: BAN ON OUTSIDE FIREWOOD**

- 11.6.1 No firewood or timber with bark intact shall be transported to or through the reservation from a distance of greater than 25 miles, except pursuant to a permit issued by the Natural Resources Department. This provision includes, but is not limited to, campfires, business and industrial use, or firewood used to heat the home. **(03/17/15)**
- 11.6.2 Anyone who violates 11.5.1 shall have their wood confiscated and may be assessed a fine. **(03/17/15)**.

11.7 **SECTION 7: NON-TIMBER FOREST PRODUCT HARVESTING**

- 11.7.1 Small Scale Harvest Activity: A Red Cliff tribal member may harvest non-timber forest products without possessing a valid harvest permit up to the following limits per calendar year, unless otherwise specified:
 - a) Bark: Twenty (20) trees
 - b) Birch Poles: Ten (10) trees
 - c) Boughs: One hundred (100) pounds

d) Lodge poles: Sixty (60) trees

11.7.2 The following harvest activities that exceed those thresholds listed in 11.7.1 shall require a permit obtained in advance from the Environmental Department and shall be subject to the additional restrictions indicated below:

11.7.3 Bark:

- a) Permittees shall not cut down or kill a live tree for the purpose of harvesting bark.
- b) Permittees shall only remove the outer layer of bark, 1/8th inch thick.

11.7.4 Birch Poles:

- a) Permittees shall only harvest a Birch pole or sapling that is 5 inches in DBH or less;
- b) Harvest of Birch poles shall not be more than twenty-five percent (25%) of a species in any particular harvest area, unless the location is a designated harvest area.
- c) Harvest of Birch poles must occur within 10 inches of the ground.

11.7.5 Boughs:

- a) Permittees shall not cut down or kill a conifer tree for the purpose of gathering conifer boughs;
- b) Permittees shall not remove boughs from the upper half of the tree;
- c) Trees that are greater than seven (7) feet high shall be targeted for harvesting;
- d) A minimum of fifty percent (50%) of the tree's limbs must remain intact; and
- e) Gathering of White Cedar boughs or Hemlock boughs for commercial use is strictly prohibited.

11.7.6 Lodge Poles:

- a) Permittees shall not harvest trees greater than 5 inches in DBH;

- b) Harvest of lodge poles shall not be more than twenty-five percent (25%) of a species in any particular harvest area.
- a) It shall be prohibited to harvest birch poles for lodge poles.

11.8 **SECTION 8: MISCELLANEOUS FOREST PRODUCT HARVESTING**

11.8.1 Small Scale Harvest Activity: A Red Cliff tribal member may harvest the following miscellaneous forest products for the purposes of personal use or consumption without possessing a Harvest Permit:

- a) Edible fruits
- b) Edible nuts
- c) Mushrooms
- d) Asparagus
- e) Watercress
- f) Leeks

11.8.2 Ginseng:

Harvest Permit holders shall gather ginseng only from September 1 through October 31. A maximum of ten (10) ginseng plants may be harvested per harvesting period

11.8.3 Leeks:

- a) Harvest of leeks for commercial sale may occur during the growing season with a valid Harvest Permit.
- b) Harvesting shall not occur once flowers have developed on leeks.
- c) Harvesting of an entire cluster of leeks shall be prohibited.

11.8.4 A Red Cliff tribal member who seeks to harvest any miscellaneous forest product in amounts greater than those identified as “small scale” must obtain a valid Harvest Permit.

11.9 **SECTION 9: FIRES**

11.9.1 Except as otherwise provided in this section, no person shall set any fire without

previously securing a burning permit. Burning Permits shall be issued by the Environmental Department and will be valid for seven days from the date of issuance unless a fire ban is issued according to section 11.8.2.

11.9.2 The Environmental Department, in consultation with Protective Services, reserves the right to order fire closures for portions of the Reservation or to place an absolute ban on fires with the exception of ceremonial fires complying with Section 11.8.3.

11.9.3 Any ceremonial fire shall

- (1) Be limited to a containment area of no greater than a 3x3x3 foot ring;
- (2) Five feet outside of the containment area must be cleared of any debris and wet down before burning is started;
- (3) There must be an adequate supply of water at or adjacent to the burn site (i.e., a water hose tapped into a reliable water source and/or several buckets of water); and
- (4) A person must be present for the duration of the fire

11.9.4 It shall be unlawful for any person, industry, or business to burn garbage, recyclables, or any other form of waste except yard waste (See also RCCL sec. 12.8.1).

11.10 SECTION 10: ENFORCEMENT AUTHORITY

11.10.1 Any person who violates any section of this chapter or any associated permit conditions shall, except where otherwise provided, forfeit not more than \$5,000. Each day of activity shall be considered a separate violation.

11.10.2 The Tribal Prosecutor shall have the authority to prosecute violations of this Chapter.