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TITLE 10

LUMMI NATION CODE OF LAWS

NATURAL RESOURCES CODE

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**TITLE 10
LUMMI NATION CODE OF LAWS
NATURAL RESOURCES CODE**

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TITLE 10
LUMMI NATION CODE OF LAWS
NATURAL RESOURCES CODE

Chapter 10.01 Title and Purpose

10.01.010 Title

This title shall be known as the Natural Resources Code of the Lummi Nation.

10.01.020 Natural Resources Treaty Rights

The natural resources harvest rights reserved to the Tribes in the Point Elliott Treaty of 1855 to the signatory tribal parties are reserved to the Lummi Nation to the extent that it is a successor to those tribes. The exercise of the treaty reserved right by a citizen of the Lummi Nation is a privilege extended to that citizen by the Lummi Nation subject to the conditions established by the Council. The Council may suspend the natural resources treaty harvest rights for habitual violators of its provisions. The Council as a last resort may, upon recommendation of the Court, or Petition of Commission members, suspend or revoke all privileges of enrollment.

10.01.030 Jurisdiction

All citizens of the Lummi Nation exercising the Lummi Nation's Natural Resources Treaty Rights are subject to the jurisdiction of the laws of the Lummi Nation governing activities during the exercise of these rights, including acts prohibited in this Title and prohibited criminal acts contained in Title 5 of the Lummi Code of Laws. Citizens are exercising these rights while en route to or from off reservation areas where the rights are to be exercised and while in off reservation areas with the intent to exercise these rights.

10.01.040 Lummi Fisheries and Natural Resources Commission

The LIBC, as the governing body of the Lummi Nation under the Constitution and By-laws of April 10, 1970, under the authority of Article VI, Sec. 1-P, of the Constitution and By-laws, hereby establishes a subordinate organization to be known as the Lummi Fisheries and Natural Resources Commission to implement the objectives of this title

through recommendations for Council action.

10.01.050 Purpose

This title is to establish the institutional framework to govern and regulate fishing, hunting and other natural resources related activities under the jurisdiction of the Lummi Nation in accordance with cultural tradition and the best available scientific information. The title is also to protect the environment required to sustain high levels of production of those resources to ensure maximum sustainable harvest from the fish, game and other natural resources in conformity with the accepted standards of international law and specifically as reserved and secured to the Lummi Nation by the Treaty of Point Elliott, January 22, 1855, and upheld United States vs. Washington 496 F. 2d 620 (9th Cir. 1974). Actions taken under this title to restrict the activities of citizens of the Lummi Nation shall not constitute a waiver of the rights and obligations of the Lummi Nation, or recognition of the authority of any State of Federal executive agency to unilaterally regulate the activities of citizens of the Lummi Nation in their usual and accustomed fishing and hunting grounds and stations.

10.01.060 Enforcement

Officers of the Natural Resources Enforcement Patrol are authorized to make arrests, issue citations, inspect gear and equipment, confiscate gear and equipment and file complaints in the Court on behalf of the Lummi Nation when provisions of this title are violated.

Chapter 10.02 Definitions

As used in this Title the following words shall have the meaning set out in this chapter.

10.02.010 Bond

Bond as referred to in this Title shall mean: a) Cash or money order paid to the LIBC, b) A surety bond naming the LIBC as the obligee and expiring no later than 90 days after the license period, c) An irrevocable standby

letter of credit naming the LIBC as the beneficiary, or d) A savings account assignment naming the LIBC as the assignee. Terms of the assignment must specify a perpetual time period until the buyer's bank receives written notification from LIBC to terminate the assignment.

10.02.020 Charter Boat

Charter Boat shall mean a boat or seine skiff owned by a person or entity who is not a citizen of the Lummi Nation, or when the vessel is used in off reservation fisheries, a boat or seine skiff owned by a member of a recognized Indian tribe which does not have the same usual and accustomed fishing grounds and stations as the Lummi Nation, but which vessel is operated by a citizen of the Lummi Nation within areas under the jurisdiction of the Lummi Nation.

10.02.030 Citizen

Citizen shall mean any person whose name appears on the official membership roll of the Lummi Nation.

10.02.040 Closed Area

A closed area shall mean an area within the jurisdiction of the Lummi Nation, which has been closed to the harvest of natural resources for conservation or allocation purposes.

10.02.050 Commission

Commission shall mean the Lummi Fisheries and Natural Resources Commission (LFNRC).

10.02.060 Commissioner

Commissioner shall mean a representative elected by the Commission members.

10.02.070 Council

Council shall mean the Lummi Indian Business Council (LIBC).

10.02.080 Court

For the purpose of Title 10, "The Court" shall refer to the Lummi Tribal Court established pursuant to Title 1, Section 1.010 of the Lummi Code of Laws.

10.02.090 Director

Director shall mean the Director of the Lummi

Nation's Natural Resources Department.

10.02.100 Disabled Citizen

A disabled citizen for the purposes of Title 10 shall mean any enrolled member of the Lummi Nation who does not have the physical ability to fish or hunt without special assistance and has that requirement for special assistance recognized by motion of the Commission.

10.02.110 Eddy Net

Eddy nets shall be defined as an unattended net in the river attached or affixed to the river bottom or bank. Eddy nets are unlawful.

10.02.120 Fish

The noun, FISH, shall mean any fish, shellfish or other aquatic life. The verb, FISH, shall mean the attempt to, or the act of capturing, taking or otherwise harvesting any fish by any method.

10.02.130 Fishing Gear

Fishing Gear shall mean any equipment, including but not limited to nets, hooks, traps, drums, engines, electronics, vessels, boats and motor vessels, used in whole or in part for fishing.

10.02.140 Forfeiture

Forfeiture shall mean the legal process whereby items authorized for confiscation during the commission of a violation of provisions of Title 10 shall be transferred to the ownership of the Lummi Nation to dispose of as it sees fit.

10.02.150 Hunt, Hunting

To hunt shall mean the taking or attempting to take any wild animal for any purpose and by any means, and further includes any attempt to kill, injure, capture, or harass such an animal.

10.02.160 Hunting Gear

Any equipment used to hunt for and take any wild or game animals as defined in Title 10, including but not limited to rifles, muskets, shotguns, or other firearms, bow and arrows, or any non-fire gear used to take wild animals, and any vehicles used to transport the hunters and/or wild animals which have been taken in

the hunt.

10.02.170 In-Season Regulations

In-Season regulations shall be changes in the pre-season regulations with respect to time and area openings and fishing method restrictions required to meet pre-season objectives in light of new information developed during the season.

10.02.180 Lampara

Lampara gear shall mean fishing gear having no purse line or rings but employing a lead line, cork line special tag, or auxiliary lines attached to the lead line and webbing in such a manner that the fish are encircled in open water.

10.02.190 Leased Gear

Leased gear shall mean fishing gear owned by a person or entity who is not a member of the Lummi Nation, or in off reservation fisheries, fishing gear owned by a member of a recognized Indian tribe which does not have the same usual and accustomed fishing grounds and stations as the Lummi Nation, but which is operated by a Lummi member.

10.02.200 Lummi

For the purpose of Title 10, Lummi shall mean the Lummi Nation or a citizen thereof.

10.02.210 Marine Mammal Act

Marine Mammal Act shall refer to the Marine Mammal Protection Act of the United States as amended in 1988, or as amended in the future.

10.02.220 Mesh Measurements

The mesh size of any net shall be defined as the distance between the inside of one knot to the outside of the opposite vertical knot of one mesh when the mesh is stretched vertically while using a moderate tension applied to any three consecutive meshes, and then measuring the middle mesh of three while under tension.

10.02.230 Nation

Nation shall mean the Lummi Nation.

10.02.240 N.O.A.A.

N.O.A.A. shall refer to the National Oceanic

and Atmospheric Administration of the U.S. Department of Commerce.

10.02.250 Pre-season Regulation

Pre-Season regulations shall be openings and closings of fisheries by area with recommended restrictions in fishing methods proposed in advance of the season.

10.02.260 Purse Seine

Purse Seine includes all types of fishing gear consisting of a lead line, auxiliary lines, purse line and purse rings and mesh net webbing fashioned in a manner that it is used to encircle fish, and in addition prevents their escape under the bottom or lead line of the net by drawing in the bottom of the net by means of the purse line so that it forms a closed bag. The bunt is the portion of a purse seine located at the end of the net designed to form the bag that holds the net's catch after the net is pursed and is the last portion of the net to be pulled aboard the catching vessel.

10.02.270 Reef Net

Reef Net means a non-self fishing open bunt-square or rectangular section of mesh netting suspended between two anchored boats fashioned in such a manner that to impound salmon passing over the net, the net be raised to the surface. The lead lines or leads of any reef net must be floating at all times, except under the stress of tidal conditions, and shall not be fixed to any piling whatsoever, nor shall the lead or leads be constructed of any kind of mesh webbing. In the construction of the reef net no principle fyke net or fish trap may be employed.

10.02.280 Ring Net

Ring Net means all fishing gear having a rigid frame measuring no more than ten feet in diameter that is used to take shellfish in a live condition and does not entrap or restrict the free movement of shellfish until lifted.

10.02.290 Season

Season shall mean the period of the year when fisheries may be opened for commercial harvest, and shall be year around unless otherwise closed for conservation or allocation purposes.

10.02.300 Senior Citizen

Senior Citizen for the purpose of Title 10 shall mean any citizen named on the official Lummi membership role who is 62 years or older by July 1.

10.02.310 Shellfish Pot

Shellfish pot means a movable trap with one or more entrance tunnels used to entrap shellfish in a live condition.

10.02.320 Subsistence

Subsistence harvest shall be the taking of any resource for personal use and not for commercial gain.

10.02.330 Trawl Gear

(a) Otter Trawl shall be defined as a cone or funnel-shaped net, which is towed or drawn through the water by one or two vessels. They may be used on and off of the seabed and with or without doors:

(1) Bottom trawl means an otter trawl in which the otter boards or the foot rope of the net contact the seabed, and includes Danish and Scottish seine gear.

(2) Roller or Bobbin Trawl shall mean an otter trawl with foot ropes equipped with rollers or bobbins made of wood, steel, rubber, plastic or other hard material which protects the net during fishing on the seabed.

(3) Pelagic Trawl means an otter trawl where the foot rope remains above the sea bed. They may not have foot ropes protected at the mouth with rollers, bobbins, or discs.

(b) Beam Trawl means a bag shaped trawl net not using weighted otter frames or doors when operated.

(c) Scallop dredge means trawl gear with interlocking metal ring meshes.

(d) Cod end shall mean the terminal closed end of a trawl net and may be single ply or double ply mesh. A double walled cod end has two walls of webbing tied knot to knot to

the trawl net and shall not be longer than twenty-five meshes or twelve feet, whichever is greater, and shall not be used on pelagic, roller, or bobbin trawls.

(e) Chafing gear means webbing or other material attached to the bottom (underside) or around the cod end of a trawl net to protect the cod end from wear, and must not be connected to the terminal, (closed) end of the cod end.

(f) Trawl mesh size shall be the distance between the inside of one knot and the inside of the opposite vertical knot in the mesh. Minimum mesh sizes are met if a wedge of legal size can be passed through sixteen of twenty-two meshes each of wet mesh in the cod end.

10.02.340 Treaty Tribe

Any federally recognized Indian Tribe which possesses or exercises treaty fishing rights within the case area of United States v. Washington, 384 F. Supp. 312 (W.D. Wash. 1974) or United States v. Oregon.

10.02.350 Unattended Nets

An unattended net shall be defined as a net set in position to take fish without fishermen or a designated helper within the immediate area attending it, or during open hours a stake net which observations of an enforcement officer indicate has not been attended for an acceptable period of time.

10.02.360 Unapproved, Prohibited, or Restricted Clam Harvest Areas

Unapproved, prohibited or restricted clam harvest areas are defined as those areas which have not been certified according to the procedures set forth in the National Shellfish Sanitation Program and accepted by the Lummi Natural Resources Department.

10.02.370 Usual and Accustomed Fishing Grounds and Stations

Those places or stations reserved to the Lummi in the Treaty of Point Elliott, 1855, as adjudicated by the United States District Court for the Western District of Washington as "usual and accustomed grounds and stations of the Lummi Indian Tribe", now the Lummi Nation, in the litigation known as the

10.02.380 Valid Fisheries Identification Card

A valid fisheries identification card shall mean an identification card issued pursuant to Section 10.04.020, and validated pursuant to Section 10.04.030.

10.02.390 Violation

All violations of this title are civil in nature and shall result in civil penalties which must be paid in order to retain the privilege of exercising the treaty fishing and hunting rights of the Nation or to operate businesses under the jurisdiction of the Nation associated with fishing.

10.02.400 Wastage

Wastage is the taking of any fish, shellfish, aquatic life, game or wild animal, bird or waterfowl subject to regulation under this title which has been harvested or disposed of in a manner resulting in its becoming unfit for its normal use or human consumption.

10.02.410 Wild or Game Animal

Wild or game animals shall mean any mammal or fowl the taking of which have been identified by regulation of the Lummi Natural Resources Department as subject to Lummi Jurisdiction.

10.02.420 Voting Member

Any member of the Commission that meets the membership requirements of Chapter 10.03.010, and the voting requirements of Chapter 10.03.050.

Chapter 10.03 Lummi Fisheries and Natural Resources Commission

10.03.010 General Membership

Any citizen of the Lummi Nation whose name appears on the official tribal membership roll and has a valid fisheries identification card shall be a general member of the LFNRC.

10.03.020 Membership Revocation

Any general member of the LFNRC shall have his/her membership in the Commission revoked if that member:

(a) Enrolls in another federally recognized tribe and/or;

(b) Harvests fish, game or natural resources under the authority of any other tribe; or

(c) Notifies the Lummi Natural Resources Department that he/she intends to participate in fisheries in Lummi's usual and accustomed fishing areas under the authority of a license issued by the Washington State Department of Fisheries; or

(d) Has been identified in a written petition to the Council by no less than 25 affected members, to have his/her natural resource harvest privileges revoked, because of continued, serious flagrant violations of the provisions of this Title, and associated regulations, and the Council has approved this petition on a conditional or permanent basis.

10.03.030 General Membership Meetings

(a) The LFNRC shall meet quarterly in March, June, October, and December of each year to review the status of the natural resources of concern to the Lummi Nation, make recommendations, approve management plans governing the harvest of these resources by Lummi citizens, and discuss actions required to protect the full range of fishing, hunting, and the natural resources related rights reserved in the Treaty of Point Elliott.

(b) The Annual Meeting of the LFNRC shall be held on the first Wednesday of June each year, or any other date in June approved by the Commissioners, with the added objective of electing new Commissioners. Special meetings of the general membership may be called by the majority vote of a quorum of the Commissioners or by 25 registered members.

(d) Notice to the general membership for all annual, quarterly or special meetings shall be public notices posted in and on premises frequented by the members, except notice of annual meetings shall be mailed to those members present and voting.

(e) The Chair for each general meeting of the

Commission shall be an attending, voting member elected by the majority of those present and voting.

10.03.040 Quorum

The quorum to conduct a meeting of the membership shall be 25 voting members. All shall have in their possession a valid fisheries identification card.

10.03.050 Voting

(a) All members shall have one (1) vote each.

(b) No proxy votes shall be allowed.

(c) The Secretary/Treasurer of the Commission shall count the votes and report the results to the Commission.

(d) An issue shall be voted upon and passed or denied by the vote of a simple majority of those present and voting with a quorum present.

(e) Voting age shall be eighteen years or older.

10.03.060 Lummi Fisheries and Natural Resources Commission Governing Body

The governing body of the LFNRC shall be composed of eleven (11) Commissioners elected from the general membership of the Commission and confirmed by the LIBC by resolution.

10.03.070 Commissioner Term

The term of each Commissioner shall be three (3) years, with one third of the terms expiring each year.

10.03.080 Procedure for Commissioner Nomination

Nominees for Commissioner shall be made from the floor at the Annual Meeting of the General Membership.

10.03.090 Commissioner Vacancies

(a) If any Lummi Indian Natural Resources Commissioner shall die, resign, or move outside the boundaries of Whatcom County, or shall be found guilty of a felony, or a misdemeanor involving dishonesty in any

Indian, State, or Federal court, a vacancy in his office shall automatically be created.

(b) If any Commissioner fails to participate in three (3) regular meetings without good cause, therefore not actively representing the membership, then his/her position may be declared vacant by a vote of six (6) other Commissioners. The challenged Commissioner shall be notified by mail and shall have the privilege of a grievance hearing before a meeting of the Lummi Indian Fish & Game Commissioners.

10.03.100 Commissioner Recall Procedures

(a) The Lummi Natural Resources Commissioners may, by majority vote, initiate the recall of any Commissioner for neglect of duty or gross misconduct. A special meeting of the general membership shall be called by the Commissioners for that purpose after the Commissioners shall have given at least ten (10) days written notice to the person being recalled of the reason for recall. At that meeting the Commissioner being recalled shall be given an opportunity to answer all charges.

(b) A petition signed by 25 voters of general membership can call a special meeting for the purpose of recalling a commissioner. The petition shall recite the acts of neglect of duty or gross misconduct for which the recall is sought.

(c) A Commissioner shall be recalled by a vote of 2/3 of the general membership present and voting at a special meeting called to discuss that recall, and a vacancy shall automatically be created.

10.03.110 Filling a Commissioner Vacancy

Upon determination by the Commissioners that a Commissioner position is vacant, the remaining Commissioners at their next regular or special meeting shall appoint a person qualified to fill the office until the next general membership meeting, at which time a successor shall be elected for the remainder of the unexpired term.

10.03.120 Powers and Duties of Commissioners

The Commissioners shall have the following powers and duties:

(a) To make recommendations to the Director of Natural Resources concerning pre-season regulations and to review and provide final approval of these regulations.

(b) To make recommendations on behalf of all fishers to the LIBC concerning changes in the Natural Resources Code and associated regulations, and establishment of taxes and/or fees levied on fishing and hunting activities.

(c) In consultation with the General Membership and the Lummi Natural Resources Department, to develop long term objectives for the production and management of resources for fishing, hunting, and forestry, and the environmental quality required for that production and strategies to achieve these objectives for recommendation to the LIBC for adoption as official Government Policy.

(d) Subject to the approval of the LIBC to represent the Lummi Nation with respect to Fishing and Hunting activities of Lummi Citizens in intertribal, federal, state, and international co-management meetings, and when specifically asked to do so by the LIBC to represent the Lummi Nation in areas peripherally impacting these fishing and hunting activities.

(e) To make recommendations to LIBC on behalf of the General Membership concerning actions by the Council or other governmental agencies affecting Lummi fishers and hunters.

(f) To make recommendations to the LIBC and its senior staff concerning the operations of the Lummi Natural Resources Department and the performance of its Director, with respect to budget requirements and efficiency of program implementation.

(g) To receive and expend funds appropriated for Commission use by the LIBC, to develop a program, prepare a budget (subject to approval of the LIBC in accordance with the

Tribal Budget Ordinance) and supervise the implementation of the program to identify fishing and hunting objectives, develop policy and strategy to achieve these objectives, and present this policy to appropriate levels of county, state, federal, and Tribal governments.

(h) To identify specific tasks for execution by Commissioners and levels of compensation for the execution of such tasks all in accordance with LIBC Personnel Policies, except when the Commission determines that necessary representation during a fisheries opening that will result in a loss to the Commissioner, compensation may be related to the expected loss of fishing revenue.

10.03.130 Lummi Fisheries and Natural Resources Commission Officers

The Commissioners shall hold their first official meeting at the conclusion of the Annual General Membership Meeting to nominate and elect a CHAIR, VICE-CHAIR, AND SECRETARY/TREASURER. No official business shall be conducted until the officer positions are filled.

10.03.140 Quorum

The quorum for a Commissioners meeting shall be four (4) Commissioners. If the CHAIR and the VICE-CHAIR are both absent, the attending Commissioners shall designate another Commissioner to chair the meeting.

10.03.150 Chair

The Chair shall:

(a) Preside over all the meetings of the Commissioners,

(b) Call all meetings of the Commissioners and the Commission,

(c) Sign all approved minutes of meetings over which he or she presides,

(d) Serve as judge of elections,

(e) Perform all duties required of a presiding officer, and

(f) Supervise the execution of tasks identified

during Commissioner's meetings.

10.03.160 Vice-Chair

In the absence or in the event of the disability of the Chair, the Vice-Chair shall serve in place of the Chair.

10.03.170 Secretary/Treasurer

The Secretary/treasurer shall:

(a) Keep minutes of all meetings and provide a copy within ten days to each Commissioner and sign all approved minutes.

(b) Supervise the maintenance of the Commission's membership roll by the Lummi Natural Resources Department.

(c) Call and notify the Commissioners of submittal of petitions from the general membership and ensure the presiding officer sets a specific date and time to address the contents therein.

(d) Serve as custodian of records of all property of accounts held by the Commission.

(e) Be held responsible for the integrity and completeness of all accounting.

(f) Receive and disburse all funds of the Commission. Disbursements require a completed task form for a task approved in a Commissioners meeting and signed by the Chair and/or the Secretary/Treasurer. All procedures for receiving and disbursing funds shall be agreed between the Commission and the Council. All income and disbursements shall be reported into the minutes of the next regular meeting.

(g) Make a full oral or written report on the financial status of the Commission accounts to the Commissioners and the Council each month.

(h) Compile other such reports as required by the tribal council and commission or membership.

10.03.180 Commissioners Meetings

(a) The Chair (or in his absence, the Vice-Chair or designee) shall call all the meetings

(special, regular, and annual).

(b) Special meetings shall be called by six (6) or more Commissioners if the Chair fails to act upon the request.

(c) The Commission shall meet on the last Thursday of each month.

(d) All special meetings will require notice to the Commissioners by telephone or personal message.

10.03.190 Accounting and Auditing

All income and disbursements by the Commission shall be through the LIBC under the authorization of the Secretary/Treasurer and the Chair or designee approved by the Commission. Audit of the accounts of the Commission shall be according to the normal LIBC practices.

10.03.200 Fiscal Operating Year

The official year shall begin on the first day of JANUARY of each year and end on the last day of DECEMBER of the same year.

Chapter 10.04 Lummi Fishing and Hunting Identification Cards

10.04.010 Lummi Nation Treaty of Point Elliott Identification Card

The Lummi Nation Treaty of Point Elliott Identification Card is the picture identification card issued by the Enrollment Officer of the Lummi Nation, or designee, identifying the carrier as an enrolled member of the Lummi Nation entitled to hunt and fish for personal use. The fee for this card, set by the LIBC, is \$3.00 for the initial card. The fee doubles for each replacement card issued.

10.04.020 Lummi Nation Treaty Indian Fishing Identification Card

The Lummi Nation Treaty Indian Fishing Identification Card is the picture identification card identifying the carrier as a citizen of the Lummi Nation with the right, when appropriately validated, to harvest and sell fish and shellfish resources under the jurisdiction of the Lummi Nation. It shall be issued by the Lummi Natural Resources Department under the following terms and

conditions.

(a) The applicant is named on the official membership roll of the Lummi Nation, and

(b) The applicant is at least 12 years old at the beginning of the fishing year.

Cards which have been lost or damaged beyond repair and returned to the Lummi Natural Resources Department will be replaced without additional charge.

10.04.030 Lummi Nation Treaty Indian Fishing Identification Card Validations

To be valid, the card referred to in 10.04.020 above must each year have attached an appropriate validation sticker issued by the Lummi Natural Resources Department under the following conditions:

(a) The appropriate fee has been paid to the LIBC as follows, with the exception of Senior Citizens who shall receive their cards without the payment of fees:

(1) Basic Commercial privileges \$20.00

(2) Additional Special Validations

Halibut and general bottomfish	\$10.00
Clams	\$10.00
Crab	\$10.00
Herring	\$10.00
Shrimp	\$10.00
Sea Urchins	\$10.00
Sea Cucumbers	\$10.00

(b) The applicant has no unpaid fish taxes or fines or outstanding civil penalties resulting from natural resources violations.

(c) An authorized member of Lummi Natural Resources staff has applied the validation sticker to the identification card for which it has been issued.

These validation stickers shall be valid from July 1 of the year of issuance until June 30 of the following year.

10.04.040 Replacement of Validation Stickers

(a) In the event that an identification card is damaged beyond use and returned to the Lummi Natural Resources Department, all current validation stickers will be replaced free of charge.

(b) Upon payment to the LIBC of fees equal to twice the original fee noted in 10.04.030 above, the Lummi Natural Resources Department shall issue replacement validation stickers from identification cards which have been lost

10.04.050 Fishing without Proper Identification

It shall be a violation of this title to participate in a commercial fishery opened under the jurisdiction of the Lummi Nation without having on one's person a Commercial Fishing Identification Card, referred to in 10.04.020, validated according to the provisions of sections 10.04.030, except that non-participating immediate family members may be on a vessel participating in such a fishery with only the Identification card referred to in 10.04.010 above, or in the case of a subsistence fishery under the jurisdiction of the Lummi Nation, the identification card referred to in 10.04.010 above.

(a) If the fisher has valid cards, but is judged not to have had them on his/her person while fishing the civil penalty shall be as follows:

First Violation:
\$25.00 to \$100.00

Second Violation:
\$50.00 to \$200.00

Third and Subsequent Violations:
\$150.00 to \$500.00

(b) If the fisher has no valid cards, but is eligible to receive one, the civil penalty shall be:

First Violation:
\$50.00 to \$200.00 and suspension of fishing privileges for 10 to 20 days.

Second and Subsequent Violations
\$150.00 to \$500.00 and suspension of fishing privileges for 20 to 40 days.

(c) If the fisher is a member who has surrendered his/her commercial identification card to the Lummi Court as a result of a judgment of that Court, the civil penalty shall be \$1,000.00 to \$2,000.00 and suspension of fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

10.04.060 Fraudulent Use of Commercial Fishing Identification Card I

No fisher shall use his commercial fishing identification card to sell fish or shellfish taken legally in a fishery under the jurisdiction of the Lummi Nation that he/she did not participate in catching. Violation of this section shall result in civil forfeiture of the catch sold illegally or civil penalty equal to the value of the fish sold and an additional civil penalty as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Third and subsequent violations
\$100.00 to \$500.00

10.04.070 Fraudulent Use of Commercial Fishing Identification Card II

No fisher shall use his commercial fishing identification card to allow any other fisher to exercise any fishing rights to which they are not entitled by this title or any regulations established to implement this title. Violation of this section shall result in forfeiture of the illegal catch or a civil penalty equal to the value of the fish sold and the additional civil penalty of \$500.00 to \$1,000.00 and suspension of fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

10.04.080 Surrender of Identification Cards

When fishing and/or hunting privileges are suspended or revoked by the Court or other court of competent jurisdiction, the appropriate identification card must be surrendered to the Court upon issuance of the judgment unless otherwise specified in the judgement.

Chapter 10.05 Vessel Registration

10.05.010 Registration

All vessels owned by members and used in fishing activities governed by this title shall be registered by the operator with the Lummi Natural Resources Department within 30 days of the transfer, or prior to its first use in a fishery under Lummi jurisdiction, which ever comes first. The Department will issue documentation identifying the owner of a vessel, a registration number where appropriate, and an annual registration sticker, valid from July 1 through June 30 of the following year, to be applied to the vessel registered when the owner has satisfied the following requirements:

(a) Legal ownership of the vessel by an enrolled member of the Lummi Nation, including but not limited to documentation papers from the Coast Guard, Bill of Sale, or mortgage documentation, and

(b) An application form with the following information:

- (1) Owner's name and complete address
- (2) State in which the vessel will be principally used
- (3) The number previously issued by an issuing authority, if any
- (4) Whether the application is for a new registration number, renewal of a registration number, or a transfer of ownership
- (5) Verify that the principle use of the vessel is for treaty right fisheries

- (6) Make of the vessel
- (7) Year of manufacture or model year
- (8) Manufacturer's hull identification
- (9) Overall vessel length
- (10) Type of vessel (open, cabin, house or other)
- (11) Hull composition (wood, steel, aluminum, fiberglass, plastic or other)
- (12) Propulsion (inboard, outboard, inboard-outboard, sail or other)
- (13) Principle fuel (gasoline, diesel, or other)
- (14) Owner's signature, and
- (c) A current photograph of the vessel, and
- (d) Confirmation that the vessel is not registered by any other Treaty Tribe, and
- (e) For vessels documented by the United States Coast Guard, current documentation papers indicating that documentation is valid for the majority of the year for which the registration is to be issued, and
- (f) Payment of a \$2.50 fee; such fee is subject to regulation by the Lummi Natural Resources Department and approval by the Commission and the Council, except that Senior Citizens need not pay any fee.

10.05.020 Change of Registration

When the ownership of a vessel registered under this section to participate in fisheries under Lummi jurisdiction changes the registered owner must notify the Lummi Natural Resources Department within 10 days of the transfer of ownership so the vessel may be stricken from the Lummi Register, and must be registered by the new owner, if a Lummi Citizen. Failure comply with this provision shall be punishable by a civil penalty of \$50 to \$100.

10.05.030 Treaty Vessel Registration Number

The Lummi Natural Resources Department shall issue a Treaty Vessel identification number for each vessel registered by the Lummi Nation. This number shall consist of a WN Prefix, a 3 digit number and a XLW suffix. This number must be permanently placed on both sides of the bow in block letters not less than three inches in height in a color distinctly contrasting with the background. The number must read from left to right and include spaces or hyphens the width of the letters between the three parts of the registration number. In the case of documented vessels, the registration number shall be displayed in the manner commonly enforced by the Coast Guard for similar vessels in the non-Indian fleet.

10.05.040 Annual Treaty Registration Validation Stickers

The Annual Treaty Registration Validation Stickers shall be issued by the Lummi Natural Resources Department after the satisfaction of the conditions in 10.05.010 above. Registration validation stickers must be displayed on either side of the bow, aft of and directly in line with the registration number within 6 inches of the registration number, or name of the vessel if documented. In the case of documented vessels, the registration validation sticker may be displayed in the manner commonly enforced by the Coast Guard for similar vessels in the non-Indian fleet.

10.05.050 Replacement of Registration Stickers

The Lummi Natural Resources Department will replace Vessel Registration Validation Stickers upon application by the registered owner certifying that the original materials have been lost, damaged or otherwise made unfit for identification purposes.

10.05.060 Fishing without Valid Vessel Registration

All vessels and/or boats used in fisheries under the jurisdiction of the Lummi Nation must be registered according to the provisions of Section 10.05.010 above and have the registration documentation on board the

vessel. Violations of this section shall be subject to civil penalties as follows:

(a) If the vessel is appropriately registered and the required registration number and registration validation sticker and registration documentation are not on the vessel, the member shall be subject to civil penalties as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$50.00 to \$100.00

Third violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$500.00

(b) If the vessel can meet the requirements for registration in Section 10.05.010 above, but has not yet been registered the fisher shall be subject to civil penalties as follows:

First violation
\$100.00 to \$200.00

Second violation
\$250.00 to \$500.00

Subsequent violations
\$500.00 to \$1,000.00 and loss of fishing privileges for 30 to 60 days.

(c) Vessels which cannot meet the requirements for registration in Section 10.05.010 above shall be considered to be charter boats.

10.05.070 Fish Vessel Safety Regulations

The Director in consultation with the Commission may promulgate regulations concerning the safe operation of fishing vessels to protect the fishers, the resource and the general public. These regulations may include but are not limited to:

(a) Demonstration of on board safety equipment such as approved flotation devices,

immersion suits, fire suppression devices, navigation equipment, first aid kits, hold ventilation equipment, anchors, emergency flares and signaling devices, and radio.

(b) Approved pollution prevention measures governing the disposal of oil, garbage and sewage.

(c) Competence in navigation, first aid, and vessel safety fish handling and public health protection procedures.

(d) Fish storage areas suitable to protect the public health.

Such regulations shall become effective upon approval by the Commission and posting at the Lummi Natural Resources Department and locations frequented by Lummi fishers. Civil penalties may be specified in the regulation, and vessel registration numbers, registration validation stickers and registration documentation may not be issued until the requirements of the such regulations are met. In the absence of specific penalties in such regulations the following shall apply:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Subsequent violation
\$150.00 to \$500.00

Chapter 10.06 Seasons and Regulations

10.06.010 Season

The seasons and general guideline for open times and days for the harvest of natural resources are set in the appropriate section of this Title for each target species, and are subject to modification during the year by the Director in consultation with the Commission.

10.06.020 Subsistence Fisheries Regulations

The Lummi Natural Resources Department with the approval of the Commission may from time to time establish regulations governing the harvest of fish and shellfish for

personal use. In the absence of specific provisions in this title or regulations under this section, the applicable current Washington State Department of Fish and Wildlife requirements with respect to seasons and conservation related size limitations shall be observed except that no State licenses shall be required for Lummi subsistence fishing. Regulations promulgated under this section may provide for specific civil penalties. In the absence of specific civil penalties it shall be unlawful to take fish or shellfish for subsistence purposes except as provided for in this section. Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 25.00 to \$50.00

Second violation
\$ 50.00 to \$100.00

Subsequent violations
\$150.00 to \$500.00

10.06.030 Pre-season Fishing Regulation

The Lummi Natural Resources Department shall develop pre-season regulations affecting the harvest of resources covered by this title containing at least the following information:

- (a) Anticipated run size or stock abundance.
- (b) The spawner requirement, and/or total available harvest.
- (c) The catch objective appropriate to Lummi.
- (d) The number of units of each gear type expected in each area to be opened.
- (e) The anticipated pattern of opening and closing by area during the season.
- (f) Restrictions on fishing activity.

This pre-season regulation shall be reviewed and approved by the Commission and the Council at least one month prior to the opening of the fishery, unless essential information required for that regulation

dependent on action by non-Lummi entities is not available in time to meet this deadline. The pre-season regulation shall be filed with all other affected parties at least 10 days prior to the opening of the fishery. Pre-season regulation shall be posted in a conspicuous location in the Natural Resources Office and other locations frequented by Lummi fishers. Copies will be made available to members upon request.

10.06.040 In-Season Fishing Regulation

Specific time and area openings by gear with appropriate gear restrictions and sub-area closures may be changed from the pre-season regulations during the fishing season to achieve allocation and conservation objectives as more accurate information becomes available about stock strength, timing, and fishing efficiency. In-season fishing regulations are issued by the Director in consultation with the Commissioners.

10.06.050 Fishing Regulation Hotline

The Lummi Fisheries Regulation Hotline shall be the final authority for Lummi fishers concerning time and area openings by gear and fisheries restrictions not contained in the pre-season regulation or this title. This Hotline shall be available to all Lummi fishers on a 24-hour per day basis. The information contained on the Lummi Regulation Hotline shall be reproduced in a notice which shall be posted at the Natural Resources office and at various places frequented by Lummi Fishers on and around the Reservation. The printed copy of the Hotline shall contain the initials of the Director or his designee approving the text and the date and time that the information was placed on the Regulation Hotline. In the event of a breakdown in the Regulation Hotline, the posted Hotline copy shall govern the conduct of fisheries under the jurisdiction of this title.

10.06.060 Notice to Affected Governments

Notice of Lummi off reservation regulatory actions shall be transmitted to affected tribal, state, and federal parties by mail when timeliness of notification is not a factor, by "EasyLink" or electronic notification through a reliable, independent third party documenting the time and content of the

transmission in the case of salmon regulations or facsimile transmission. Salmon regulations shall be transmitted by "EasyLink" between 9:00am and 2:30pm Mondays through Thursdays or between 9:00am and 10:00am Fridays or days before holidays. No regulations authorizing a fishery may be effective until 24 hours after transmittal unless there is a specific waiver of the notice requirement from all affected parties, or it is an opening authorized by the Fraser Panel of the Pacific Salmon Commission in which Lummi concurs. Regulations opening non-salmon fisheries shall be filed with affected parties at least 24 hours prior to the opening.

10.06.070 Compliance with Pre-Season And In-Season Fishing Regulations

All members must observe the provisions in regulations promulgated under Sections 10.06.030 and 10.06.040 above and noted in the Hotline Message issued under Section 10.06.050 above. Failure to observe the effective terms and conditions of Regulations and Hotline Messages not otherwise covered in this title shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00 and loss of fishing privileges for 14 to 28 days.

Subsequent violations
\$250.00 to \$500.00 and loss of fishing privileges for 30 to 60 days.

10.06.080 Hunting Regulations

The Lummi Natural Resources Department may develop regulations governing the harvest of wild birds, marine mammals, game and wild animals under the jurisdiction of the Nation. These regulations shall be effective upon approval by the Commission, but may be rescinded by the Council. Regulations may restrict off reservation hunting to a greater extent than Chapter 10.17 of this title, but no regulation shall expand off reservation hunting beyond the limits set in Chapter 10.17 without the approval of the Council. Regulations may deal with but are not limited

to emergency openings and closures, restrictions on the type or gender of animal that may be taken, permit and reporting procedures, permit fees, tagging of pelts, and other similar matters. Hunting regulations shall be posted in a conspicuous location in the Natural Resources Office and other locations frequented by Lummi hunters. Copies will be made available to hunters upon request. In the absence of specific regulations governing the harvest of wild birds, game or other wild animals under the jurisdiction of the Nation, applicable regulations of other federal or state management authorities governing the harvest with respect to biological factors including but not limited to sex, size, and season required to ensure future harvests of the species must be observed. Violations of hunting regulations not otherwise specified in Chapter 10.17 shall be civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$250.00 and suspension of hunting privileges for 14 to 28 days

Subsequent violations
\$250.00 to \$500.00 and suspension of hunting privileges for 30 to 90 days

10.06.090 Forestry Regulations

The Director, in consultation with the Commission and the Council, shall have the authority to promulgate regulations that may be necessary to implement Chapter 10.18, with respect to management and preservation of forestry resources within the exterior boundaries of the Lummi Reservation, and establish reasonable civil penalties to ensure compliance with such regulations.

Chapter 10.07 General Provisions

10.07.010 Fishing and Hunting on Reservation is Prohibited to all but Citizens of the Lummi Nation

It shall be a violation of this title for any person not a citizen of the Lummi Nation to take or attempt to take any fish or shellfish or to hunt for wild animals within the exterior

boundaries of the Lummi Reservation. Violations of this section shall result in forfeiture of all fish or wild animals taken illegally and all nets, gear, hunting equipment and gear, motors, boats, and vehicles used in the commission of the violation and the additional civil penalty of \$5,000.

10.07.020 Responsibility for Violations

All fishers on a vessel fishing for any fish or shellfish or members of a party fishing for fish and shellfish or hunting may be cited for any violation associated with the harvest of fish or shellfish or hunting of any wild or game animal by any fisher on that vessel or member of the party.

10.07.030 Severely Restricted Fisheries

The Director, in consultation with the Commission, may declare any fishery involving critical allocation or conservation issues to be a severely restricted fishery. Any violation of this title involving a severely restricted fishery shall require the maximum penalties provided in this title.

10.07.040 Permitted Fisheries

The Director, in consultation with the Commission consistent with existing co-manager agreements and applicable Lummi regulations, in order to explore fisheries potential, may issue permits for fishing activities not otherwise permitted or otherwise opened in accordance with the provisions of Title 10.

10.07.050 Use of State Commercial Fishing Licenses Prohibited

No citizen of the Lummi Nation shall commercially fish, nor permit his or her boat or gear to be used in any commercial fishery, in any usual and accustomed fishing grounds and stations of the Lummi Nation opened by the State of Washington except on days and at times and in areas where the Lummi Nation shall have opened the fishery for its citizens unless that citizen shall have elected to fish as non-Indian under Section 10.03.020. Violation of this section shall result in:

(a) Forfeiture of the fish caught during such an opening, or a civil penalty in an amount equal to the value of the fish caught if the fish

have been sold and,

(b) An additional civil penalty of not less than One Thousand dollars (\$1,000), and

(c) Revocation of the tribal fishing privilege for the balance of the current fishing year and the next subsequent fishing year. In case more than one species of fish were harvested in violation of this section, the fishing privilege shall be suspended for the season of the species of the largest number of fish caught in violation of this section.

10.07.060 Commercial Fishing in Closed Areas

The commercial harvest of fish or shellfish is closed to Lummi citizens unless specifically opened by regulations promulgated under Chapter 10.06 above. It shall be a violation of this title to fish in a closed area. If a fisher is fishing in a closed area, the penalty shall be forfeiture of all fish taken illegally or a civil penalty equal to the value of the fish caught if sold, and additional civil penalties as follows:

First violation

\$ 50.00 to \$100.00 and suspension of fishing privileges for 10 to 20 days.

Second violation

\$250.00 to \$500.00 and suspension of fishing privileges for 20 to 40 days.

Third violation

\$500.00 to \$1,000 and suspension of fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

The civil penalties for violations of other sections of the title may exceed those noted in this general section.

10.07.070 Assistance Forbidden

No person exercising fishing rights of the Lummi Nation shall be assisted by, or have with him/her, while fishing, any person who is not a member of the Lummi Nation, or in off reservation fisheries, a member of a recognized Indian tribe which does not have the same usual and accustomed fishing

grounds and stations as the Lummi Nation, or a member of a tribe with the same usual and accustomed fishing grounds and stations as Lummi, but without appropriate valid identification from that tribe. Violation of this section shall result in forfeiture of the illegal catch or a civil penalty equal to the value of the fish sold and the additional civil penalty as follows:

First violation

\$100.00 to \$200.00 and suspension of fishing privileges for 14 to 28 days.

Second violation

\$250.00 to \$500.00 and suspension of fishing privileges for 30 to 60 days.

Third violation

\$500.00 to \$1,000.00 and suspension of fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

10.07.080 Non-Tribal Parties on Lummi Registered Vessels

It shall be lawful to have the following Non-Tribal parties on board Lummi Registered Vessels provided that they are not assisting in the conduct of a tribal fishery:

(a) A staff member of the Lummi Natural Resources Department or a staff member of a co-manager with approval of the Director of Natural Resources on board for the purpose of collecting biological information.

(b) A bone fide mechanic on board the vessel during testing of vessel and gear performance when catch is not retained.

(c) A paid customer on a vessels operated by a Lummi Citizen with a permit, issued by the Director, to carry such parties for the purpose of participating in a legal WDFW recreational fishery, provided that the permittee complies with all applicable safety regulations and files regular reports to the Lummi Natural Resources Department, as required, concerning locations fished, the numbers of fish hooked by species and the number of fish retained by species. Failure to follow the

terms and conditions of a permit shall be cause to revoke this permit. In this case the Lummi Citizen is exercising a treaty right associated with fishing by carrying non-treaty parties but the harvest it attributed to the non-treaty harvest

10.07.090 Prohibited Behavior

It shall be a violation of this section while fishing or hunting under the jurisdiction of the Lummi Nation to:

(a) Possess or drink alcoholic beverages, or

(b) Possess or consume any illegal substance or drug, or

(c) Litter harvest areas or adjacent areas, or

(d) Urinate in public view, or

(e) Damage private property while gaining access to the harvest areas, or

(f) Park a vehicle except in a designated area, or

(g) Create a public hazard.

Violations this section may jeopardize the opportunity to obtain subsequent permits and are punishable by civil penalties as follows:

First violation

\$ 50.00 to \$100.00

Subsequent violations

\$100.00 to \$200.00

10.07.100 General Penalties

In the absence of specific penalties for violations of sections of this chapter the following civil penalties will apply:

Minor Offenses

First violation

\$ 50.00 to \$100.00

Subsequent violations

\$100.00 to \$200.00

Major Offenses

First violation

\$250.00 to \$500.00 and suspension of fishing privileges for 30 to 60 days.

Subsequent violation

\$500.00 to \$1,000.00 and suspension of fishing or hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing or hunting privileges again.

10.07.110 Minors

Minors less than 12 years of age will not be allowed to fish unless they are enrolled in the Lummi Nation and accompanied by a parent or guardian who is also enrolled in the Lummi Nation. Minors between the age of 12 and 18 years of age shall be permitted to fish between 3:00pm and 9:00pm on or off the reservation during the open season while school is in session. Minors over 12 years of age may fish all open hours during school vacation if the fishing season is open. It shall be forbidden for minors to fish at anytime during regular school hours unless they have graduated from High School. Minors and parents/guardian having legal obligation for such minor shall each be fully liable for the violations of this section. Violations of this section shall require forfeiture of all fish taken illegally, or a civil penalty equal to the value of fish, if sold, and an additional civil penalty as follows:

First violation

\$ 50.00 to \$100.00 assessed on the minor or parent/guardian and suspension of the minor's fishing privileges for 14 to 28 days.

Second violation

\$100.00 to \$200.00 assessed on the minor or parent/guardian and suspension of the minor's fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

10.07.120 Charter Boats Prohibited

No member shall operate or fish a charter boat in fisheries conducted under the authority of the Lummi Nation. Violation of this section shall result in forfeiture of the illegal catch or civil penalty equal to the value of the fish, if

sold, and an additional civil penalty of \$1,000 to \$2,000 and suspension of fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

10.07.130 Leased Gear Prohibited

No member shall use leased gear in fisheries conducted under the authority of the Lummi Nation. Violation of this section shall result in forfeiture of the illegal catch or a civil penalty equal to the value of the fish, if sold, and an additional civil penalty of \$1,000 to \$2,000 and suspension of fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

10.07.140 Fishing or Hunting While Intoxicated or Under the Influence of a Controlled Substance

It shall be a violation of this title for any member to fish or hunt, to be the operator of a fishing boat or vehicle or to otherwise be in, or in transit to, the area of a fishery or a hunt with the intent of participating in an opened fishery or hunt while, in the opinion of the attending Natural Resources Enforcement Patrol Officer, under the influence of, or affected by alcohol or intoxicating drugs, or to have on board or in possession under these circumstances any opened container of alcoholic beverages or any controlled substances punishable by civil penalties as follows:

First violation

\$ 50.00 to \$100.00

Second violation

\$150.00 to \$300.00

Third violation

\$250.00 to \$500.00

Subsequent violations

\$500.00 to \$1,000.00 and loss of fishing privileges for 30 to 60 days.

Further, if in the opinion of a Natural Resources Enforcement Patrol Officer, the

cited party appears to be in a condition which would present a danger to him/herself or the general public, the officer may order the party to quit the treaty related harvest activity, arrest, or arrange for the arrest of the party.

10.07.150 Failure to Obey a Lawful Order

It shall be a violation of this section to refuse a lawful order of a Natural Resources Enforcement Officer to stop any act in violation of Title 10. Violations of this section shall be punishable by civil penalties as follows:

First violation
\$200.00 to \$400.00

Second violation
\$300.00 to \$600.00 and loss of harvest privileges for 1 to 4 months.

Subsequent violations
\$1,000.00 to \$2,000.00 and suspension of fishing or hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing or hunting privileges again.

10.07.160 Harassment of Natural Resources Enforcement Officer or Employee

It shall be a serious violation of this Title to threaten, verbally harass or otherwise interfere with a Natural Resources Enforcement Officer or an employee of the Lummi Natural Resources Department performing his/her official duties punishable by civil penalties as follows:

First violation
\$500.00 to \$1,000.00 and suspension of fishing and hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing and hunting privileges again.

In addition to civil penalties, violators of this section may be subject to arrest and punished under criminal sections of Title 5 of the Lummi Code of Laws.

10.07.170 Assault on a Natural Resources Enforcement Officer or Employee

It shall be a serious violation of this Title for any citizen to assault with the intent to inflict or actually inflicting bodily harm on a Natural Resources Officer or an employee of the Lummi Natural Resources Department performing his/her official duties punishable by a civil penalty of one thousand dollars (\$1,000.00) to two thousand dollars (\$2,000.00) and suspension of fishing and hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing and privileges again.

In addition to civil penalties, violators of this section may be subject to arrest and punishment under criminal sections of Title 5 of the Lummi Code of Laws.

10.07.180 Protection of Seafood/Broodstock Held for Fisheries Management

Any person who, without tribal authorization, shall steal, molest, damage, kill, cause the death of, or otherwise harm any fish, eggs, or milt, captured or held by the Lummi Indian Nation for the purpose of providing brood stock, enhancement of fishery resource or other fisheries management purpose shall be guilty of a violation of this title. As used in this section fish captured or held by the Lummi Nation shall include but not be limited to fish in the tribal fish hatcheries, incubation facilities, rearing ponds or brood stock collection areas. Violations shall be punishable by a civil penalty of \$1,000.00 to \$2,000.00 and suspension and suspension of fishing privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise fishing privileges again.

10.07.190 Protection of Stocks or Populations in Conservation Status

The Director may identify, after consultation with the Commission, a stock or population of fish, shellfish or wildlife as being in conservation status when the level of the breeding members has not been achieved in

recent years and no directed harvest has been allowed on the stock by any harvester. The Director shall specifically state in his determination, the stock in conservation status and the areas and times when closures for stocks in conservation status are required. It shall be a violation of this title to harvest in an area closed to protect a stock or population in conservation status. Violations shall be punishable by forfeiture of all gear, motors, vessels, and vehicles used in the commission of the violation and by civil penalties as follows:

First violation

\$500.00 to \$1,000.00 and suspension of harvest privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise harvest privileges again.

10.07.200 Protection of Stocks or Populations in Critical Status

The Director may identify, after consultation with the Commission, a stock or population of fish, shellfish or wildlife as being in critical status when the stock is experiencing production levels so low that he determines that permanent damage to the stock is likely or has already occurred. The Director shall specifically state in his determination, the stock in critical status and the areas and times when closures for stocks in critical status are required. It shall be a violation of this title to fish in an area closed to protect a stock in critical status. Violations shall be punished by forfeiture of all gear, motors, vessels, and vehicles used in the commission of the violation, a civil penalty of \$1,000.00 to \$2,000.00 and suspension of harvest privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise harvest privileges again.

10.07.210 Wastage Prohibited

Wastage of fish, shellfish and game subject to management by the Lummi Nation shall constitute an offense of this title punishable by civil penalties as follows:

First violation

\$ 50.00 to \$100.00

Second violation

\$100.00 to \$200.00 and suspension of fishing privileges for 14 to 28 days.

Third violation

\$250.00 to \$500.00 and suspension of fishing privileges for 30 to 60 days.

Subsequent violation

\$500.00 to \$1,000.00 and suspension of fishing privileges for 45 to 90 days.

10.07.220 Interactions of Marine Mammals with Fishing Activities

A tribal owner of fishing gear, or catch, and/or employees or agent of such owner, or a Natural Resources Enforcement Officer:

(a) May deter a marine mammal from damaging such gear or catch, from damaging a Lummi Citizen's private property, or from endangering personal safety, so long as such measures do not result in the death or serious injury to the marine mammal.

(b) May deter a marine mammal from damaging such gear or catch, from damaging a Lummi Citizen's private property, or from endangering personal safety, by any lethal means, provided however, that all reasonable steps to deter the marine mammal have been taken.

Any fisher or owner of a Lummi registered fishing vessel shall report all incidents which result in incidental mortality or serious injury to marine mammals to the Lummi Harvest Management Division, Lummi Natural Resources Department, within 48 hours of the closure of the fishery in which the incidental mortality or serious injury occurred. The carcass of any marine mammal killed during the exercise of the treaty fishing right should be retained, if reasonably possible, and be made available to the Natural Resources Harvest Management Division for necessary biological sampling, after which it may be returned to the fisher for use as he/she sees fit. Any such taking of marine mammals shall be deducted from any annual tribal quota at the time the animal was killed. Failure to observe and comply with any provision of this section

shall be punishable by civil penalties as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Subsequent violation
\$150.00 to \$500.00

10.07.230 Use of Firearms To Deter Marine Mammals

Fishers shall not use firearms to deter marine mammals from impacting their fishing operations in a manner which in the opinion of the attending Natural Resources Enforcement Patrol Officer will create a hazard or pose a danger to others. Failure to observe and comply with any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Subsequent violations
\$150.00 to \$500.00

10.07.240 Treaty Indian Fish Receiving Tickets

All sales of fish and shellfish must be reported on the appropriate Treaty Indian Fish Receiving Ticket. The fisher selling and the buyer purchasing the fish and shellfish shall be responsible for the following:

(a) All information contained on the ticket is accurate.

(b) The Lummi fisher's embossed Lummi Treaty Indian Fishing Identification card issued and validated according to Sections 10.04.020 and 10.04.030 above is imprinted on the Fish Ticket by an appropriate mechanical device or means of transferring the embossed information.

(c) The tribal copy of the fish ticket is signed

by the Lummi member selling the fish with the signature on the Fishing Identification Card. Each failure to comply with one of the provisions shall constitute a violation of this section punishable by a civil penalty of \$10 per offense for the first 10 offenses, and \$25 per offense thereafter.

10.07.250 Sale of Fish or Shellfish

All fish and shellfish taken for commercial purposes under the authority of this title must be sold only to a buyer licensed by the Lummi Nation pursuant to Chapter 10.08. The civil penalty for violation of this section shall be twice the value of the tax liability and an additional penalty of \$25.00 per offense.

10.07.260 Enterprise Fisheries

When the abundance of a stock is not sufficient to allow a meaningful fishery by all Lummi fishers qualifying to participate in such a fishery, the Lummi Natural Resources Department in consultation with the Commission may contract with a number of fishers to maximize the return from the fishery while providing a reasonable return to the contracted fishers for their effort, and gear, and

10.07.270 Enterprise Fisheries Revenue

Given the objective of the enterprise fishery to protect Lummi access to severely limited fisheries while avoiding windfall or unusual profits to individual fishermen, contracts shall be structured to provide a reasonable return to the participating fishermen and excess revenues from the enterprise, less reasonable management costs, shall be deposited in the general fund. The Council will give a high priority to the allocation of these funds to the production of additional fisheries resources.

10.07.280 Enterprise Fisheries Contract

When Lummi fishermen are participating in fisheries as contractors for the Council, they shall be responsible for the conditions of the contract and reporting requirements specifically included in those contracts by the Lummi Natural Resources Department to ensure responsible management of the resource.

Failure to observe the terms and conditions of

a enterprise fishery contract with the Council shall result in civil penalties as follows:

First violation
\$ 20.00 to \$ 40.00

Second violation
\$ 50.00 to \$100.00

Subsequent violation
\$100.00 to \$200.00

Chapter 10.08 Fish Buyers, Processors, Sellers

10.08.010 Buyers License

All fish buyers purchasing fish or shellfish from tribal fishermen either on or off the reservation shall be licensed by the Council for that privilege. This license effective between July 16 and valid until July 15, of the following year (a bridging license from January 31, 2002 to July 15, 2003 shall be implemented), shall be obtained from the Accounting Department under the following terms and conditions:

(a) The buyer is a commercial seafood buyer duly licensed or organized under the laws of the Lummi Nation and/or the State of Washington.

(b) The bond referred to in Section 10.08.040 is received.

(c) The buyer pays any business activity tax on the purchase price paid to fishers as may be required from time to time by Council resolution. All taxes due shall be received by the Council within 20 days of the end of each quarter.

(d) The buyer withholds 6% tax on the gross sale price of fish and shellfish purchased from Lummi fishers, records the same on the Treaty Indian Fish Receiving Tickets, and transfers the tax withheld each month by the 10th day of the following month.

(e) The buyer accepts that any tax not paid when due shall bear interest at the rate of one and one half (1 1/2) percent compounded monthly for each month or portion thereof for

which the buyer is delinquent.

(f) The buyer completely and accurately fills out a Treaty Indian Fish Receiving Ticket for each purchase of fish or shellfish, imprints the embossed valid commercial fishing identification card of the seller, and posts them to the Northwest Indian Fisheries Commission within one (1) day unless otherwise notified by the appropriate official in the Lummi Natural Resources Department.

(g) The Buyer will provide harvest management statistics from fish tickets as may be requested by the Lummi Natural Resources Department.

(h) The Buyer will fill out adjustment Treaty Indian Fish Receiving Tickets as required by the Lummi Accounting Department, and post within one day of the adjustment.

(i) The buyer displays a current license and adhesive emblem at each station.

(j) The buyer pays a license fee of \$150.00 and \$50.00 for each additional buying station.

(k) The buyer shall not purchase any fish or shellfish from any Lummi fisher without a valid Fish Buyers License.

(l) The buyer will provide reasonable access to buying stations to Natural Resources Enforcement Patrol for the purpose of inspecting the products purchased from Lummi fishers, and to Lummi Natural Resources Department personnel for the purpose of sampling fisheries products purchased from Lummi fishers.

(m) The buyer agrees to be subject to the jurisdiction of the Court in any action arising from or concerning the Buyer's Agreement and the registration of any judgment from that court in any state for the purpose of enforcement.

(n) The buyer agrees to pay reasonable attorney fees and all costs and expenses of any litigation arising from dispute concerning implementation of the terms and conditions of the Buyers License Agreement.

(o) Any other terms and conditions which may be required by the Accounting Department and the Lummi Natural Resources Department.

(p) The buyer agrees to surrender the license and emblem upon official notice from Lummi that requires it.

(q) The buyer agrees to abide by all laws, titles, and regulations of the Lummi Nation, all applicable Federal Law and all regulations of the U.S. District Court.

(r) The buyer, if purchasing clams, will within two (2) days of a purchase, deliver to the Lummi Natural Resources Department the cleaned official harvest bags in which clams were delivered by Lummi harvesters, and return harvest tags which were attached to the harvest bags in which clams were delivered by Lummi harvesters, after the National Shellfish Sanitation Program required holding period has expired.

(s) The buyer will not purchase oysters from citizens of the Lummi Nation, except authorized representatives of the Lummi Natural Resources Department.

In the case of severely limited fisheries, particularly shrimp and crab fisheries, where timely reporting of catches is essential to good management, buyers will report the daily landings by area, number of fishers and poundage on a message phone identified on the hotline prior to midnight each day of the fishery.

(u) Violation of any portion of the Buyers Agreement issued under the provisions of this Section may lead to the following action by the Accounting office in consultation with the Commission:

(1) Revocation of the Buyers License.

(2) A penalty of 10% of unpaid taxes and accrued interest for reinstatement after license revocation.

(3) An administrative penalty of \$10 dollars for each of the first 10 incorrectly filled in Treaty Indian Fish Receiving

Tickets, or ticket not presented in a timely manner as required each year, and \$25.00 for every such violation thereafter.

10.08.020 Purchase Without a Buyers License

It shall be unlawful to purchase fish or shellfish from Lummi member without a current valid Buyers License issued pursuant to Section 10.08.010. Violation of any provision of this section shall be punishable by civil penalties of \$100.00, for minor offenses, to \$5,000.00, for a buyer who has had his license revoked. If the license has been revoked, the violator must appear before the Council and the Commission before a Buyer's License may be reissued to the buyer or to the facilities owned by the violator at the time of the violation, and

10.08.030 Illegal Purchases

(a) It shall be illegal for buyers to knowingly purchase from Lummi member's fish and shellfish which has been harvested illegally and not otherwise prohibited in this section.

Violation of any provision of this sub-section shall be punishable by civil penalties:

First violation
\$300.00 to \$600.00

Second violation
\$500.00 to \$1,000.00

Subsequent violations
\$750.00 to \$5,000.00

(b) It shall be illegal to purchase crab which are smaller than the 6.25" caliper measure across the back in front of the horns. Any processor shaking crab shall retain the backs of all crab currently being processed for inspection of the Natural Resources Enforcement Patrol. Penalty for violation of this sub-section shall be \$100.00 per crab smaller than 6.25" caliper measure across the back in front of the horns.

(c) It shall be illegal to purchase crab from any fisher not at the at the buyer's station within 4 hours of a fishery closure. Violation of this sub-section shall be punishable by a

civil penalty of \$500.00 per illegal purchase.

Any buyer judged to be guilty of more three violations of this section within a 3 year period, or who has not settled any outstanding judgements assessed for violations of this section, shall be denied any future Lummi Buyers Licenses and a buyers license will be denied for any party using the facilities used in the buying operation. The violator must appear before the Council and the Commission before a Buyer's License may be reissued to the buyer or to any buyer using facilities owned by the violator at the time of the violation. A Buyers License can not be re-issued to the buyer or for the facilities until all obligations from previous licenses have been met.

10.08.040 Buyers Required to Post Bond

The purpose of a bond required from buyers is to ensure that all required taxes and surcharges are received by the Nation. Unless otherwise specified by the Finance Director in consultation with the Commission, each buyer shall be required to post a bond in an amount of \$20,000.00 or two hundred percent (200%) of the tribal tax which was or should have been collected by him during the preceding fishing season. In the case where there is no history of purchases from Lummi fishers, the bond shall be the equivalent to the taxes, which could be collected from the expected purchases for a three (3) month period. In special cases, the Finance Director, in consultation with the Director and the Commission may establish bonding and/or tax payment conditions in the buyer's agreement that will meet Lummi tax collection and fisheries development objectives. Conditions such as collateral instead of bond, or daily or weekly payments may be approved the Accounting Department in consultation with the Commission. This bond shall be conditioned on prompt payment of obligations to Lummi; failure to pay taxes and surcharges when due shall be grounds for revocation or suspension of a Buyers License. No buyer shall be issued a license until the balance owing from the previous year is cleared or an agreement on clearing up the balance owing from the previous year has been reached

between the buyer and the Finance Director, in consultation with the Director and the Commission.

10.08.050 Violation-Revocation of License

Any buyer who shall have disregarded or violated the rules and regulations set forth in this title or issued under the authority of this title must surrender his/her license to purchase fish or shellfish to the Natural Resources Enforcement Patrol upon request by the Finance Director in consultation with the Commission. Violation of this section shall be punishable by a civil penalty of \$100.00.

10.08.060 Buyers Identification Cards

All persons or businesses purchasing fish from Lummi fishers must have a wholesale fish buyers embossed identification card issued by the State of Washington or applicable tribal government, and make an imprint of that card on the Treaty Indian Fish Receiving Tickets used to record the transaction.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First offense
\$ 50.00 to \$100.00

Second offense
\$100.00 to \$200.00

Subsequent offenses
\$150.00 to \$500.00 and loss of Lummi Fish Buyers License.

10.08.070 Lummi Fish Buyer Identification Card

The Director may issue a tribal fish buyer identification card to any enrolled Lummi or any Party, when it has been determined by the Director, in consultation with the Commission to be in Lummi's best interest to do so, with a valid Lummi Fish Buyers License issued pursuant to Section 10.08.010, wishing to purchase fish for resale pursuant to the treaty right upon submission of an application containing the information required by the Director. There is no charge for this identification card. A tribal fish buyer identification card is valid for no other

purpose than to impress buyer information on the Treaty Indian Fish Receiving Ticket.

10.08.080 On Reservation Buyer's Reports

All persons or businesses purchasing or processing fish and shellfish within the bounds of the Lummi Reservation shall provide the Lummi Natural Resources Department with copies of all reports submitted to the Washington State Government on fish and shellfish activities or monthly summaries of fish and shellfish buying activities from non-Lummi fishers as may be required by the Director.

It shall be a violation of this title to fail to provide these reports when requested by the Director, punishable by a civil penalties as follows:

First Offense
\$50.00 to \$100.00

Second Offense
\$100.00 to \$200.00

Subsequent Offenses
\$150.00 to \$500.00 and loss of Lummi Fish Buyers License.

10.08.090 Clam Shippers and Packers

It shall be unlawful to purchase clams or other bivalve mollusks from Lummi fishers unless the buyer has a valid Shellfish Sanitation Certification as a Shipper or Packer under the National Shellfish Sanitation Program, or if a tribal buyer, has the authority from his or her tribal government to purchase and ship shellfish under the standards of the National Shellfish Sanitation Program, and purchases from Lummi fishers only clams which are contained in an official Lummi Clam Harvest Bag, sealed by the official monitor with an attached, appropriately completed monitor tag.

Violation of any provision of this section shall result in the forfeit of a current Lummi Buyers License and any bond posted to guarantee performance under the Buyers Agreement and be punishable by civil penalties as follows:

First violation

\$300.00 to \$1,000.00

Second violation

\$2,000.00, and revocation of the buyer's license. The violator must appear before the Council and the Commission before a Buyer's License may be reissued to the buyer or to the facilities owned by the violator at the time of the violation.

10.08.100 Lummi Clam Buyers

It shall be unlawful for any Lummi to purchase clams or other bivalve mollusks for resale without having a Shellfish Sanitation Certification under the National Shellfish Sanitation Program as a shellfish shipper/packer or written permission to operate under the Lummi Shellfish Sanitation Certificate pursuant to a written agreement with the Lummi Natural Resources Department to comply with the requirements established in the current National Shellfish Sanitation Program.

Violations of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$300.00 to \$1,000.00

Second violation

\$2,000.00, and revocation of the buyer's license. The violator must appear before the Council and the Commission before a Buyer's License may be reissued to the buyer or to the facilities owned by the violator at the time of the violation.

10.08.110 Fish Processors and Sellers

All persons selling fish or shellfish in fresh or processed form on the Lummi Reservation, or Lummis selling such products off the reservation must:

(a) Have an appropriate Buyer's license issued pursuant to Section 10.08.010, if purchased from fishers, and any additional license required by the Lummi Nation,

(b) Observe Lummi health and safety standards set forth in regulations promulgated by the Lummi Natural Resources Department

or in the absence of such regulations applicable established off reservation standards,

(c) Provide monthly reports to the Lummi Natural Resources Department of the origin of the raw material by source (purchased from fisher or from wholesaler, gifted by fisher) by species, quantity and date of capture,

(d) Ensure that all products sold have been purchased from a licensed wholesaler or a fisher, and maintain records on site for review by the Lummi Natural Resources Department, or from the primary harvester and appropriately recorded on the Treaty Indian Fish Receiving Tickets, and

(e) Comply with all environmental standards that are or may be established by the Lummi Nation.

Except as provided for below, violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$300.00

For violations associated with severely restricted fisheries such, as crab and shrimp, where failure to comply defeats the purpose of the severe restrictions, the penalty shall be \$1000.00 or more and all associated licenses shall be revoked, and not reissued until the violator has presented his case to the Commission and Council.

Chapter 10.09 Salmon and Steelhead

10.09.010 Legal Marine Salmon and Steelhead Fishing Gear

The following are legal fishing gear for Salmon and Steelhead in marine waters unless specifically prohibited by regulations promulgated under Section 10.06.020 and 10.06.030 and Hotline Messages issued

pursuant to Section 10.06.040 above. Identification buoys shall contain the Treaty Fishing Identification Number of the owner of the fishing gear in permanent markings of a size sufficient to read from a distance of 6 feet.

(a) Purse Seine - Purse Seine salmon nets shall not exceed 1800 feet in length along the cork line while wet, and purse seine and lead combination shall not exceed 2,200 feet. Neither shall contain meshes of a size less than four (4) inches, nor shall the meshes of the seine and lead be lashed together to form one continuous piece of wedged gear. It shall be unlawful to take or fish for salmon with purse seine gear which contains mesh webbing constructed of twine smaller than 210/3 nylon, twelve (12) thread cotton or the equivalent diameter in any other material. It shall be unlawful as part of the purse seine to have a bunt greater than ten (10) fathoms long and/or three hundred (300) mesh deep with mesh of a size less than 3 1/2 inches. It shall be unlawful for any purse seine vessel to carry an extra lead or portion thereof unless stored below decks during the fishing operation, nor may an extra lead or portion thereof be carried aboard its skiff. Identification buoy(s) shall be attached to end(s) of cork line.

(b) Gill Net - Marine salmon or steelhead gill nets shall not exceed 1,980 feet in length nor contain meshes of a size less than five inches unless authorized by regulation. Other mesh sizes may be set from time to time by regulation. These nets may be free drifting, or anchored, tied or otherwise weighted or attached to poles in a manner that it can not drift. Identification buoy(s) shall be attached to end(s) of cork line.

(c) Reef Net - Reef net salmon nets shall not exceed 300 meshes on any side nor contain meshes of a size less than 3 1/2 inches nor utilize more than two leads. Each of said leads shall not exceed a maximum of 200 feet in length measured from the bows of the reef net boats to the nearest end of the head buoys. The use of any false, detached or auxiliary lead shall be unlawful. Identification buoy(s) shall be attached to each lead.

(d) Beach Seines - Beach seines shall be

defined as fishing gear consisting of a lead line, cork line, auxiliary lines and mesh net webbing fashioned in such a manner that can be used to encircle fish in waters adjacent to any beach, with the catch landed directly on the beach. Beach seines shall not exceed 1,200 feet in length and contain meshes of a size no less than four (4) inches. Identification buoy(s) shall be attached to cork line. Each beach seine must be individually authorized in writing by the Commission and LIBC.

(e) Lampara - Lampara shall be defined as fishing gear having no purse line or rings but employing a lead line, cork line, special tag or auxiliary lines attached to the lead line and webbing in such a manner that the fish are encircled in open water. Identification buoys shall be attached to the cork line. Must be authorized in writing by the Commission and LIBC.

(f) Stake Nets - Stake nets are a gill net attached to poles, which have been pushed into the bottom and have a definite pot and lead. The total length of nets shall not exceed 1,800 feet. The pot shall not exceed 600 feet, the lead shall not exceed 1,200 feet. Identification buoy(s) shall be attached to cork line. All poles come out of the water at dusk.

(g) Troll Line - Troll line when related to its use for commercial purposes shall be defined as a fishing line used to drag a lure or lures behind a moving vessel and shall permit the use by any one vessel of not more than six (6) lines. The size and type of hook may be limited by regulation.

(h) Hook and Line (Angling) - "Hook and line" or "angling" shall be identical in meaning and shall be defined as the use of no more than four (4) lines per person with one hook per line. The size and type of hook may be restricted by regulation/hotline.

10.09.020 Legal River Salmon and Steelhead Fishing Gear

The following are legal fishing gear for Salmon and Steelhead in river waters (waters upstream of the line of permanent vegetation) unless specifically prohibited by regulations

promulgated under the Section 10.06.020 and 10.06.030 and Hotline Messages issued pursuant to Section 10.06.040 above. Identification buoys shall contain the Treaty Fishing Identification Number of the owner of the fishing gear in permanent markings of a size sufficient to read from a distance of 6 feet.

(a) Drift Gill Nets - River salmon or steelhead gill nets shall not exceed 660 feet in length nor contain meshes of a size less than five inches unless otherwise authorized by regulation. Other mesh sizes may be set from time to time by regulation. These nets must be free drifting and not anchored, tied or otherwise weighted in a manner that they can not drift. Identification buoy(s) shall be attached to end(s) of cork line.

(b) Hand Dip Net - Hand dip nets shall be defined as a section of netting distended by a rigid frame, operated by a process commonly recognized as dipping. Any size dip net shall be lawful.

(c) Hook and Line (Angling) - "Hook and line" or "angling" shall be identical in meaning and shall be defined as the use of not more than (2) two lines per person with one hook per line. The size and type of hook may be restricted by regulation.

10.09.030 Use of Illegal Salmon and Steelhead Fishing Gear

It shall be an offense under this title to take salmon with any gear except that specified in 10.09.010 and 10.09.020 as appropriate.

Violation of this section, including but not limited to use of eddy nets, or mesh size and net length violations in excess of those noted above shall be punishable by forfeiture of the illegal nets, the fish taken or the value of the fish if sold, and the additional civil penalties as follows:

First violation

\$100.00 to \$200.00 and suspension of fishing privileges for 14 to 28 days.

Second violation

\$250.00 to \$500.00 and suspension of fishing

privileges for 30 to 60 days.

Third violation

\$500.00 to \$1,000.00 and suspension of fishing privileges until after the period of a year, the violator meets with the Council and the Commission and has fishing privileges reinstated.

10.09.040 Unattended Nets Prohibited

It shall be a violation of this title to have a net in a position to take fish without the member or designated helper in the immediate area attending it, and as noted in Section 10.09.050. Such an offense shall be punishable by civil penalties as follows:

First violation

\$ 50.00 to \$100.00

Second violation

\$100.00 to \$200.00 and forfeiture of gear

Third violation

\$250.00 to \$500.00, forfeiture of gear and suspension of fishing privileges for 30 to 60 days.

10.09.050 Stake Net Use

The following shall govern the use of stake nets on the Reservation:

(a) It is unlawful to fish stake nets between one hour after sunset and one hour before sunrise as published in the Bellingham Herald during openings listed on the Hotline Message. All poles must be removed during the closed period to provide equal opportunity of access, except as follows:

(1) Special permits may be issued to Senior Citizens under conditions of age and infirmity which allow them to leave the net tied in a non-fishing position on the poles during the closed period.

(2) Senior Citizens with helpers operating their stake nets must have the nets removed during the closed period.

(3) Special permits may be issued by the Lummi Natural Resources Department in cases where there is little demand for

staking space, or interference with other fishing activities, which will allow the permit holder to leave the net tied on the poles in a non-fishing position during the closed period.

(b) No one shall have more than one stake net gear set out at any one time.

(c) Nets staked out and fishing with no one in attendance, which based on the observations of the enforcement officer, have not been attended for an unacceptable period of time shall be considered unattended.

(d) Nets staked out during the day and left overnight with no one in attendance shall be considered unattended.

Violations of this section shall be punishable with civil penalties as follows:

First violation

\$ 50.00 to \$100.00

Second violation

\$100.00 to \$200.00

Third violation

\$250.00 to \$500.00

Subsequent violations

\$500.00 to \$1,000.00 and suspension of fishing privileges for 30 to 60 days.

10.09.060 On Reservation and In-River Gear Prohibitions

The Lummi Natural Resources Director or his Designee, in consultation with the Lummi Natural Resources Commission, may prohibit the presence of any Lummi fishing gear including but not limited to nets, motor, and gas tanks on board fishing boats, during periods when no legal fishery is expected. The prohibition shall be noted by Hotline Message and shall specify the areas and times of the prohibition.

Violation of such prohibition shall be punishable by forfeiture of the gear and additional civil penalties as follows:

First violation

\$200.00 to \$500.00 and suspension of fishing

privileges for 30 to 60 days.

Subsequent violations
\$500.00 to \$1,000.00 and suspension of
fishing privileges for 60 to 120 days.

10.09.070 In-River Fishing Restriction

It shall be unlawful to fish a drift gill net from bank to bank in any river fishery under the jurisdiction of this title.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$300.00

Chapter 10.10 Herring Fishery

10.10.010 Lawful Herring Gear

(a) Purse Seine - Not to exceed 300 fathoms in length, 1/2 inches [maximum] mesh.

(b) Gill Net - as established by Regulation promulgated pursuant to Chapter 10.06.

(c) Beach Seine - By authorization of the Commission.

The use of unlawful herring gear in a herring fishery shall be an offense requiring forfeiture of catch, or catch value if sold, and additional civil penalties as follows:

First violation
\$100.00 to \$200.00 and suspension of fishing privileges for 14 to 28 days.

Second violation
\$250.00 to \$500.00 and suspension of fishing privileges for 30 to 60 days.

Third violation
\$500.00 to \$1,000.00 and suspension of fishing privileges until after the period of a year, the violator meets with the Council and

the Commission and has fishing privileges reinstated.

10.10.020 Management Regimes

When the herring stocks within the Lummi usual and accustomed fishing areas are not sufficiently abundant to support the harvest of a normal open fishery by members the Director, in consultation with the Lummi Natural Resources Commission, may establish limited entry fisheries, and in the worst case, enterprise fisheries to ensure preservation of the access to the commercial harvest and maximum benefits to all Lummi members. The conduct of normal and limited entry fisheries shall be by regulations promulgated pursuant to Chapter 10.06 above, while enterprise fisheries will be governed by the terms of the contract with the Council.

Chapter 10.11 Halibut Fisheries

10.11.010 Legal Halibut Gear

The following are lawful gear for use in the halibut fishery:

(a) Hook and Line - a rod and reel with no more than two (2) hooks.

(b) Hand line - a single line with no more than two (2) hooks.

(c) Longline - A weighted ground line with fixed gear tied to, or attached to line with snap hooks. The size of the hooks, the number of skates or the number of hooks, and/or the amount of halibut which can be landed during a day of an opening may be limited by regulation.

(1) A long line skate shall be no more than 1800 feet in length and anchored at each end.

(2) Each long line skate or combination of skates shall be attached at either end by an anchor or fishing boat and marked by buoys, one at each end of the line marked with fishermen's Treaty Indian Fishing Identification Card Number.

(d) Troll Line - Troll line when related to its use for commercial purposes shall be defined

as a fishing line used to drag a lure or lures behind a moving vessel and shall permit the use by any one vessel of not more than six (6) lines. The size and type of hook may be limited by regulation.

10.11.020 Subsistence Halibut

The taking of halibut for personal use in the Lummi Usual and Accustomed Fishing Areas shall be under the following restrictions:

- (a) The season shall be open from January 1 to December 31 each year.
- (b) There is no minimum size limit on fish taken in the subsistence fishery.
- (c) The number and total weight of fish taken during a commercial opening and kept for personal use must be recorded on a Treaty Indian Fish Receiving Ticket and/or reported to the Lummi Natural Resources Department.
- (d) The number and estimated weight of all halibut taken in a non-commercial fishery shall be recorded and reported to the Lummi Natural Resources Department on request.

Failure to observe the conditions of this section shall be punishable by civil penalties as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Subsequent violations
\$100.00 to \$200.00

10.11.030 Ceremonial Halibut

Any member with a valid subsistence fishing and hunting card or Commercial Fishing Identification Card issued pursuant to Sections 10.04.010 or 10.04.020 above may by special permit issued by the Director of Lummi Natural Resources, take halibut for special ceremonial use under the terms and conditions of that permit.

10.11.040 Commercial Halibut

The commercial halibut fishery shall be

conducted under the following terms and conditions:

(a) Identification - the vessel operator must have on his/her person, a current halibut validation for his/her Commercial Fishing Identification Card. Others on board the vessel must have a valid Commercial Fishing Identification Card, which may be without a halibut validation. Failure to comply with these conditions shall be punishable as in Section 10.04.050.

(b) Registration - a fisher must provide the Lummi Natural Resources Office with the following information prior to receiving their Halibut Validation stickers pursuant to Section 10.04.030 (a) above:

(1) Treaty Vessel Identification Number.

(2) Vessel Gross and Net Tonnage.

(3) Gear type and proof of ownership and if Longline, the number of skates normally fished.

(4) Names and fishing Identification Card Numbers of helpers, or others whom might operate the vessel.

(c) Openings - The commercial season is closed unless opened by regulation.

(d) Size Limits - It shall be illegal to sell or offer for sale, or barter, halibut less than 32 inches in total length. All halibut offered for sale must be landed with the head on.

Violation of this provision shall be subject to forfeiture of fish or value thereof and additional civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$250.00

Subsequent violations
\$250.00 to \$500.00

(e) Bycatch - All lingcod taken prior to April 15th each year in the commercial halibut

fishery must be released; otherwise all other incidental catches legal under current general bottom fish restrictions may be sold under a Commercial Fishing Identification Card validated for halibut.

Violations of this provision shall be treated under the appropriate Sections dealing with the bottom fish.

Chapter 10.12 General Bottom Fisheries

10.12.010 Legal Bottomfish Gear

It is unlawful to take, fish for, or possess Bottomfish except with gear described below, unless otherwise provided by regulation:

(a) Set line gear-set line gear must meet the following conditions:

(1) Hook size must not be smaller than size 7/0 Kirby style hooks or size 8 for tuna circle hooks.

(2) Set lines must be marked at the surface by a buoy clearly marked in a permanent fashion with only the owner's Commercial Fishing Identification Card number.

(b) Set Nets - including dogfish set nets but excluding pacific cod set nets.

(c) Commercial Jig.

(d) Troll Lines -

(1) No more than two troll lines per vessel,

(2) No more than 4 spreads per troll line,

(3) The top spread can not be more than twenty-four feet from the weight on the end of the line.

(e) Drag (Beach) Seines - must not be longer than 350 feet in length with mesh no smaller than 1/2 inch stretch measure.

(f) Beam and Otter Trawls - including bottom, roller and surface trawls may be used with the following restrictions:

(1) Mesh Size - Mesh in the cod end

section shall not be less than 4 1/2 inches, except that pelagic trawls used to take Pacific Whiting during legal openings may contain mesh in the cod end section of not less than 3 inches.

(2) Chafing Gear - On bottom trawl chafing gear must have a minimum mesh size of 15 inches unless only the bottom half of the cod end is covered by chafing gear. For pelagic trawls chafing gear covering the upper one half (top side) of the cod end must have a minimum mesh size of 6 inches.

(3) Roller Trawl - Roller Trawl gear is prohibited.

10.12.020 Bottomfish General Provisions

(a) It is unlawful to take, fish for, or possess for commercial purposes any starry flounder less than 14 inches in length taken by commercial bottomfish gear.

(b) It is unlawful to retain for commercial purposes any lingcod less than 22 inches.

(c) It is unlawful to take or possess lingcod taken for commercial purposes with any gear from December 1 through April 30.

(d) It is unlawful to take, fish for, or possess any species of shellfish taken with lawful bottom fish gear, except for octopus.

10.12.030 Beam and Otter Trawl Fisheries

It shall be lawful to fish for and possess bottomfish taken with bottom trawl and beam trawl gear in Lummi usual and accustomed fishing except as noted below, or otherwise provided by regulation:

(a) Waters east of a line from Point Whitehorn to Sandy Point and Marine Fish and Shellfish Management and Catch Reporting Area 21B are closed for the entire year.

(b) Waters in Marine Fish and Shellfish Management and Catch Reporting Area 20A in an area bounded by lines from Lilly Point and from the southwest corner of Point

Roberts to Point Whitehorn to where these two lines are intersected by a line from Kwomias Point in British Columbia and a line from Lilly Point to the North Alden Bank Buoy are closed from April 15 through May 31.

(c) Waters of Marine Fish and Shellfish Management and Catch Reporting Area 20A within the area bounded by a line from Lilly Point to Birch Point, and Lilly Point to the North Alden Bank Buoy to where those lines are intersected by a line projected approximately 230 degrees south from Birch Point to Alden Point on Patos Island are closed from June 1 to June 30.

(d) All marine waters less than 30 feet deep.

(e) It is unlawful to take bottomfish for commercial purposes in pelagic trawl except in Marine Fish and Shellfish Management and Catch Reporting Area 20A from March 1 throughout April 14, or at any time and area specified by permit issued by the Director.

10.12.040 Log Books

The operator of trawl gear must obtain from the Lummi Natural Resources Department and accurately maintain a "Lummi Trawl Logbook" on the vessel while fishing for or in the possession of bottomfish taken with the trawl gear. The completed logbook must be submitted on request to authorized Lummi Natural Resources Department personnel. For each fishing trip, and prior to landing, vessel operators shall record the vessel name and tribal vessel identification number, the dates of departure and return to port, and the buyer(s) of the fish landed. In addition, for each trawl tow conducted during the trip, the vessel operator shall record the month and day, duration of the tow, specific area fished, net type, target species, and estimated weight of each species retained. Copies of this log shall be turned in to the Lummi Natural Resources Department within ten days of the end of each calendar month in which fishing occurs or by the tenth day following the termination of commercial fishing activity, whichever occurs first.

10.12.050 Legal Gear for Dogfish

It shall be legal to take and possess dogfish taken with:

(a) Set nets- set nets must be as described below:

(1) Maximum four (4) nets per vessel each net having a length not to exceed 1000 feet.

(2) Net depth must not exceed 25 meshes.

(3) Net mesh must not be less than 5 inches.

(4) Net web material must be no finer than 210/30 (12) denier nylon.

(5) Net must have Lummi Treaty Fishing Identification Card number on a buoy at each end of the net.

10.12.060 Set Net Seasons

It shall be permitted to take and possess dogfish and other species of bottom fish, except halibut, salmon and shellfish, taken with dogfish set net gear for commercial purposes only in the following Marine Fish and Shellfish Management and Catch Reporting areas during the seasons designated below:

(a) Areas 20A and 20B - November 1 through June 15

(b) Areas 21A - March 1 through June 15

10.12.070 Set Line Seasons

It shall be unlawful to take, fish for, or possess dogfish and other bottomfish with set lines in all Lummi usual and accustomed areas unless otherwise permitted by regulation.

10.12.080 Commercial Jig Seasons

It shall be unlawful to take, fish for, or possess bottomfish for commercial purposes with commercial jig gear except from April 30 to November 30.

10.12.090 Commercial Drag (Beach) Seine Seasons

Open to legal gear for the taking of bottomfish

for commercial purposes year around unless otherwise restricted by regulation.

10.12.100 Commercial Bottomfish Seasons

It shall be unlawful to take, fish for, or possess bottomfish for commercial purposes except in the following Marine Fish and Shellfish Management and Catch Reporting Areas: 20A, 21A, 21B, 23A, and 23B from April 30 to November 30 unless otherwise provided by regulation.

10.12.110 Bottom Fishing with Illegal Gear

Violations of Chapter 10.12 requirements for legal gear and fishing in closed seasons shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$250.00

Subsequent violations
\$250.00 to \$500.00

Chapter 10.13 Crab and Shrimp

10.13.010 Subsistence Dungeness Crab

Male, hard Dungeness Crab greater than 6 1/4" caliper measure across the back in front of the horns (Cancer magister) may be taken for subsistence use by crab pot gear or hand, net or ring gear under the following terms and conditions:

(a) Open season shall be whenever it has been determined by Lummi Natural Resources Department that the crab meet the hardness criteria.

(b) Each fisher may fish, without crab blocks, only two pots not to exceed 32" diameter at any one time, and must harvest only pots marked with a red buoy of durable material capable of floating at the surface while supporting a 5 pound weight, permanently marked with the fisher's name and tribe.

(c) Each pot must have two escape rings not less than 4.25 inches inside diameter located

in the upper half of the pot, and

(d) Each pot must be marked with the Fishing Identification Card number issued pursuant to 10.04.020 above.

(e) The fisher is not a commercial crab fisher with a commercial fisheries identification card validated for crab issued to him or her.

(f) No more than 12 crab may be in the possession of the fisher at any one time.

(g) The fisher maintains a record the date of harvest and number of crabs taken for subsistence purposes and provides it to the Lummi Natural Resources Department on request.

Violations of this section are punishable by civil penalties as follows:

First violation
\$50.00 to \$100.00

Subsequent violations
\$100.00 to \$200.00

10.13.020 Subsistence Shrimp

Spot and Coonstripe shrimp may be from April 1 through October 15 yearly under the following conditions:

(a) Spot shrimp greater than 30mm carapace measure shall not be retained.

(b) Each fisher may fish only two pots not to exceed 32" diameter at any one time, and must harvest only pots marked with the fisher's name and tribe.

(c) There shall be no more than 2 fishers per vessel participating in the subsistence fishery

(d) Each pot must be marked with a solid red buoy of durable material capable of floating at the surface while supporting a 5 pound weight, permanently marked with the Fishing Identification Card number issued pursuant to 10.04.020 above.

(e) The pots may only be set in areas opened on the hotline.

(f) No more than 25 pound of shrimp in the round may be retained per fisher on any day.

(g) The fisher maintains a record the date of harvest and pounds per species of shrimp taken for subsistence purposes and provides this information to the Lummi Natural Resources Department on request.

(h) Shrimp may be taken for subsistence purposes during a commercial fishery provided that the quantity taken for subsistence purposes is accurately reported on the Treaty Indian Fish Receiving Ticket.

Violations of this section are punishable by civil penalties as follows:

First violation
\$50.00 to \$100.00

Subsequent violations
\$100.00 to \$200.00

10.13.030 Ceremonial Crab or Shrimp Permit

The Director, or his designee, may issue a permit for the ceremonial harvest of hard, male crab for funeral, memorial or other ceremonial purposes approved by the Commission. All crab taken under a ceremonial permit must be held in a container clearly marked for ceremonial harvest. This permit shall contain the name of the harvesters, the purpose of the harvest, the number of pots to be used, the quantity of crab and/or shrimp to be harvested, the area of harvest and the dates of permit validity. At the expiration of the permit, the permittee shall report the area fished and the quantity of crab and/or shrimp taken.

It shall be a violation of this section to have more than 10% of the numbers of crab taken between 6" and 6.25" caliper measure across the back in front of the horns and any; male crab smaller than 6" caliper measure across the back in front of the horns.

Violations of the provisions of a permit shall jeopardize the ability of the permittee to obtain permits in the future and be punishable

by civil penalties as follows:

First violation
\$50.00 to \$100.00

Subsequent violations
\$100.00 to \$200.00

10.13.040 Commercial Crab Legal Gear

It shall be unlawful to harvest Dungeness Crab (*Cancer magister*), have on board a registered crab vessel, or to have in a staging area during or immediately before a commercial crab opening, gear, which does not meet the following specifications:

(a) Crab pots - standard commercial crab pots with:

(1) Two escape rings of not less than 4.25 inches inside diameter in the fixed upper half of the pot, and

(2) Pot lid hooks or tie down straps secured with a biodegradable single strand or loop of untreated natural fiber twine no larger thread than #120 strand of untreated natural, or an opening in the pot mesh no less than 3" x 5" which is laced or sewn closed with untreated natural fiber twine no larger than thread size 120; and

(3) Each pot or string of pots attached to a surface buoy of durable material capable of floating at the surface with a 5 pound weight attached, and each buoy clearly marked in a permanent fashion with the Fishing Identification Card number of the registered operator of the pots.

(4) Each pot shall be registered with the Lummi Natural Resources department as required in Section 10.13.060 below.

(b) Ring Nets - in addition to the confiscation of crab pots without escape rings or obstructed escape rings which shall be forfeit, each and every failure to comply with the requirements in this section shall be an offense punishable by civil penalties per illegal pot as follows:

First violation involving less than 10 pots

\$100.00

Violations in excess of 10 pots
\$200.00 per pot and suspension of Crabbing
privileges for 30 to 60 days.

10.13.050 Identification

It shall be unlawful to take or possess crab for commercial purposes without the vessel operator having a Treaty Fishing Identification Card currently validated for crab pursuant to Sections 10.04.020 and 10.04.030 above in his/her possession. Helpers need only a Treaty Fishing Identification Card issued pursuant to Sections 10.04.020 above, which has a current general fishing validation. Violation of this section shall be treated as a violation of Section 10.04.050 above.

10.13.060 Registration of Commercial Crab and Shrimp Gear

All commercial crab and shrimp gear used in fisheries under the jurisdiction of the Nation must be registered with the Lummi Natural Resources Department. A validation for the commercial crab or shrimp fisheries shall not be issued pursuant to Section 10.04.030 above until the applicant has registered commercial crab gear (crab pots or crab ring nets) or shrimp gear as follows by:

(a) Proven ownership (including but not limited to a valid bill of sale) of no less than 50 legal commercial crab gear equal in condition to the average of those being used in the fishery, which shall include but not be limited to a photograph taken just prior to registration and verification by Lummi Natural Resources Department authorized staff of the number of the gear units and the nature of the individual markings.

(b) Identification of the vessel which will be used to fish the registered gear, and any changes in the vessel which will be used to fish the gear. Vessels recorded in the crab or shrimp gear registry must be powered and capable of independent operation under conditions experienced in the crab fishery.

(c) The Director in consultation with the Commission and the Council may require

registration and unique identification of each registered pot.

(d) Each pot must be registered by the owner, and new pots added during the year must be added to the current registration.

(e) All sales of pots during the year must be reported to the Lummi Natural Resources Department to ensure the registration statistics remain current.

Violations of this section are punishable by civil penalties of \$50.00 per pot.

10.13.070 On Reservation Crab Management Areas

(a) Bellingham Bay - The Bellingham Bay on reservation crab management area shall be that area landward to the north, and west of a line drawn from the large boulder exposed at low tide at Point Francis to the single piling to the east of Stevie's Point, once used to mark the Bellingham side of the river mouth.

(b) Lummi Bay - The Lummi Bay on reservation crab management area shall be that area landward to the east of a line from the Entrance Buoy at Sandy Point to Gooseberry Point.

10.13.080 Crab Harvest Seasons

Currently there are three Crab Management Regimes in areas under the jurisdiction of the Nation.

The Spring Management Regime extends from April 15 through July 15 yearly and may be restricted by regulation in gear limit, area or time.

The Summer Management Regime extends from July 15 through September 15 yearly and is severely restricted by regulation in gear limit, area and time.

The In Common Winter Fishery Regime extends from September 15 of one year until April 15 of the following year.

10.13.090 Crab Openings

(a) It shall be unlawful to have in the water any commercially registered crab pots except

when such waters are opened for commercial crab fisheries by the Regulation Hotline, provided that upon notice to the Lummi Natural Resources Enforcement Patrol at the Lummi Law and Order Office noting: the identity of the fisher and the number and location of pots which have been left in the water after an opening and the registration of the vessel which will recover them, the fisher may collect the pots within 48 hours of the closure provided that there are no crab retained on the vessel.

(b) Violations of this section shall be punished by forfeiture of crab and pots on board the vessel, and all pots left in the water and with civil penalties as follows:

(1) \$100.00 per pot left in the water, and

(2) If crab are found on the vessel, \$500.00, suspension crabbing privileges for 20 days and a freeze on the transfer of any crab pots, or vessels.

(3) Three violations of this section within a 3 year period have the same monetary penalties and the suspension of crabbing privileges, a freeze on the transfer of ownership the vessel involved in the violation, all other pots owned by the violator and a prohibition of the use of the any vessel owned by the violator in crab fisheries until the violator, after the period of a year, meets with the Council and Commission and has crab fishing privileges restored.

10.13.100 Gear Limits

Failure to observe the gear limits established by regulation for any crab opening shall be punishable by confiscation of all pots in the water, at the staging area and on the vessel which shall be forfeit, a freeze on the transfer of ownership the vessel involved in the violation, all other pots owned by the violator and a prohibition of the use of the any vessel owned by the violator in crab fisheries for a year and a civil penalty of \$100 per pot being fished over the limit.

10.13.110 Unlawful Harvest

It shall be unlawful for anyone to harvest crab

or shrimp pots for commercial purposes, except when such harvest is opened for commercial crab or shrimp fisheries by the Regulation Hotline, or, when open, from pots other than those specifically registered to the fisher and from the specific vessel registered to fish the pots. The Director in consultation with the Commission may issue a special permit for harvest of crab or shrimp by a person or vessel other than those registered when the fishery is opened by the Regulation Hotline when warranted by special circumstances such as vessel breakdown, severe medical incapacity, or limited requests by seniors registered in the fishery for at least the previous 2 years. For the purpose of this Chapter, any commercial crab or shrimp gear found fishing outside of boundary lines established to manage the fishery shall be deemed to be the responsibility of the registered owner unless that owner has reported to the Natural Resources Enforcement Patrol that the commercial gear has been stolen or lost. The harvest from commercial crab or shrimp gear outside of boundary lines identifying an open area shall be a violation of this Section. Violations of this section, which are clearly theft, shall be prosecuted under the appropriate provision of the Lummi Code of Laws. Otherwise, the offense shall be punishable by civil penalties as follows:

First Violation

\$250.00 to \$500.00 and suspension of crab or shrimp privileges for 30 to 60 days.

Subsequent Violations \$800.00 and suspension of crab or shrimp fishing privileges and a freeze on the transfer of ownership of all other crab or shrimp pots owned by the violator and the vessel, and a prohibition of the use of the any vessel owned by the violator in crab or shrimp fisheries until the violator no earlier than 90 days from the Court decision, a requests and receives permission from the Commission and the Council to participate in the crab or shrimp fishery again.

10.13.120 Unlawful Possession of Crab

It shall be a violation of this section to have on board a vessel or vehicle in transit to a

buyer's, or station commercial quantities of crab more than 4 hours after the close of a fishery.

Violations of this section shall be punishable by forfeiture of all crab in transport and:

First violations: a civil penalty of \$500.00.

Subsequent violations within a 3 year period shall be punishable by a civil penalty of \$800.00 and suspension of crab fishing privileges and a freeze on the transfer of ownership of all other pots owned by the violator and the vessel, and a prohibition of the use of the any vessel owned by the violator in crab fisheries until the violator no earlier than 90 days from the Court decision, a requests and receives permission from the Commission and the Council to participate in the crab fishery again.

10.13.130 Use of Clams as Bait

It shall be a violation of this title to use in commercial crab pots: to possess live clams on a vessel registered in the commercial crab fishery or to use clams as bait in a crab fishery unless the fisher can document lawful harvest of the clams by a receipt from a buyer who has purchased the clams under the conditions of the National Shellfish Sanitation Program. Violations are punishable by civil penalties as follows:

First violation
\$100.00 to \$200.00

Second violation
\$250.00 to \$500.00 and loss of harvest privileges for 30 to 60 days.

Subsequent violations
\$500.00 to \$1000.00 and loss of harvest privileges until the violator, after one year of the court decision, meets with the Council and the Commission and has crab fishing privileges restored.

10.13.140 Use of Ground Lines

The use of ground lines in the crab fishery is unlawful, unless specifically provided for in regulations to avoid pot loss in high traffic lanes. Violation of this section shall be

punishable by forfeiture of all catch, gear, and vessels involved in the illegal activity and a civil penalty of:

First violation: \$500.00 and 30 days suspension of crab fishing privileges and a freeze on the transfer of ownership of all other pots owned by the violator and the vessel, and a prohibition of the use of the any vessel owned by the violator in crab fisheries for the period of the suspension.

Subsequent violations within a 3 year period shall be punishable by a civil penalty of \$800.00 and suspension of crab fishing privileges, a freeze on the transfer of ownership of the vessel used in the violation and all other pots owned by the violator, and a prohibition of the use of any vessel owned by the violator in crab fisheries until the violator, no earlier than 90 days from the Court decision, requests and receives permission from the Commission and the Council to participate in the crab fishery again.

10.13.150 Legal Commercial Dungeness Crab

It shall be unlawful for any person involved in commercial crab harvest to take, or possess:

(a) Female Dungeness crabs, or

(b) Dungeness crabs measuring less than 6 1/4 inches, caliper measurement across the back immediately in front of the tips, or

(c) Soft Dungeness crab in excess of 1% of the crab numbers on board a vessel. Crab are soft when the shell will yield more than 1/8th of an inch when normal pressure is applied with the thumb and finger to the top and bottom of the crab in the area of the base of the claw, or which fail to revive when returned to the water.

(d) Crab without backs or which have been processed in a manner, which will not allow the determination of the size or sex of the individual.

The possession of illegal crab on board a vessel or in transit to a processor shall be considered a violation punishable a civil penalty.

Violations involving 10 or fewer crab: \$100.00 per illegal crab Violations involving 11 or more crab \$100.00 per crab and suspension of crabbing privileges for 30 days, with the exception that soft crab in excess of 1% of the crab landed which revive when returned to the sea will be punished at a rate of \$10.00 per crab.

On the 3rd violation within 3 years, the penalty will be as above, except that the crab fishing privileges shall be suspended and a freeze on the transfer of ownership of the vessel used in the violation and all other pots owned by the violator, and a prohibition of the use of any vessel owned by the violator in crab fisheries until the violator no earlier than 90 days from the Court decision, requests and receives permission from the Commission and the Council to participate in the crab or shrimp fishery again.

Crab on board a vessel or at a buyer's station is the responsibility of the fisher until it has been accepted by the buyer after sorting.

10.13.160 Confiscated Pots

Crab and shrimp pots which have been confiscated and forfeit as a result of a violation according to provisions of this Chapter shall become the property of the Lummi Nation upon a guilty judgement, or in the absence of evidence of the identify of the legal owner, within a month of the seizure. Forfeit and confiscated and pots of unknown ownership shall be sold at public auction by the Natural Resources Enforcement Patrol during the first week of June each year and quarterly as deemed necessary to reduce the number of pots on hand

10.13.170 Recovered Pots

Crab and shrimp pots which have been reported as missing by notice to the Lummi Natural Resources Enforcement Patrol at the Lummi Law and Order Office, or other number noted on the hotline, noting the identity of the fisher and the number and location of pots which have been left in the water after an opening, and that are recovered by an authorized Lummi Natural Resources Enforcement Patrol activity within 6 hours of

a closure of a fishery, or after a period of unsafe weather conditions as determined by the Director and noted on the hotline, may be obtained by the registered owner from the Natural Resources Enforcement Patrol on payment of \$15.00 per pot.

10.13.180 Abandoned Pots

Any crab or shrimp pot, not specifically identified as subsistence or ceremonial, left in the water more than 6 hours after the closure of a fishery, excepting hours noted on the regulation hotline as unsafe for pot recovery, shall be considered to be fishing illegally, abandoned and available for retrieval by any Lummi fisher. Prior to embarking on a pot recovery mission, a fisher must register with the Natural Resources Enforcement Patrol at the Law and Order office and obtain a pot recovery permit for the time and area to be searched for abandoned pots. Upon return from a pot recovery activity, the permitted fisher shall turn over all retrieved pots for safekeeping and further legal action, if any, by the Natural Resources Enforcement Patrol.

A list of recovered pots, indicating the pot and buoy color markings, and the location of recovery will be posted in the Natural Resources office. Any fisher who can document ownership of recovered pots that were not fishing illegally, may recover pots upon payment of up to \$40.00 per pot to the account of the fisher recovering the pots, or any other settlement acceptable to the fisher recovering the pots.

After two weeks of the list of recovered pots being posted, any recovered, pots shall become the property of the fisher recovering them. Abandoned pots fishing illegally will become the property of the fisher recovering them at the conclusion of any legal actions against the registered owner for illegal fishing.

10.13.190 Commercial Shrimp - Legal Gear

It is unlawful to take, fish for, possess or process shrimp for commercial purposes with any gear except as follows, unless otherwise provided by regulation:

(a) Shellfish Pot Gear is legal under the

following conditions:

- (1) A maximum of 100 pots per fisher
 - (2) Buoys of durable material capable of remaining at the surface with a 5 pound weight attached and with the ID number of the owner clearly marked must be attached to each pot, or line of pots by a line which is sufficiently weighted to prevent the line from floating on the surface.
 - (3) All entrance tunnels must open into the pot from the sides, and the sum of the maximum widths of the entrance tunnels shall not exceed one-half of the perimeter of the bottom of the pot.
 - (4) The attachment of pot lid hooks or tie-down straps shall be with a natural fiber no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken, or an opening in the pot mesh no less than three inches by five inches, located in the top half of the pot unimpeded by entry tunnels, bait boxes, or other structures or materials which are laced or sewn closed with natural fiber no larger than thread size 120.
 - (5) Other restrictions as may be specified in regulations by the Lummi Natural Resources Department.
 - (6) All pots shall be registered with, and inspected by the Lummi Natural Resources Department.
- (b) Failure to comply with the requirements in this section shall be an offense punishable by civil penalties per illegal pot as follows:

First violation
\$100.00

Violations in excess of 10 pots
\$200.00 per pot and suspension of shrimping privileges for 30 to 60 days.

10.13.200 Commercial Shrimp Seasons

It is unlawful to take, fish for, or process shrimp for commercial purposes unless the area is otherwise permitted by

regulation/hotline.

A first violation of this section shall be punishable by a civil penalty of \$500, suspension of shrimp fishing privileges for 10 days forfeiture of all gear involved in the illegal activity, a freeze on the transfer of ownership of all other pots owned by the violator and the vessel used in the violation, and a prohibition of the use of the any vessel owned by the violator in fisheries for during the period of the suspension.

On the second violation within 3 years, the civil penalty will be \$1,000 and suspension of shrimp fishing privileges and a freeze on the transfer of ownership of all other pots owned by the violator and the vessel, and a prohibition of the use of the any vessel owned by the violator in shrimp fisheries until the violator, no earlier than one year from the Court decision, requests and receives permission from the Commission and the Council to participate in the shrimp fishery again.

10.13.210 Illegal Use of Subsistence Shrimp

It is illegal to sell shrimp taken in a commercial fishery except to a Lummi Licensed Buyer, or shrimp taken in a ceremonial or subsistence fishery.

First Violations of this section shall be subject to a civil penalty of \$500.

Second violation within 3 years, the civil penalty will be \$1,000 and suspension of shrimp fishing privileges and a freeze on the transfer of ownership of the vessel used in the violation, all other pots owned by the violator, and a prohibition of the use of any vessel owned by the violator in shrimp fisheries until the violator, no earlier than one year from the Court decision, requests and receives permission from the Commission and the Council to participate in the shrimp fishery again.

10.13.220 Shellfish Logs

It is unlawful for any vessel operator engaged in commercial crawfish, sea cucumber, sea urchin, scallop, shrimp, squid, or octopus fishing or operator of a mechanical clam

digging device to fail to obtain and accurately maintain the appropriate harvest log required by regulation. When required the log must be kept aboard the vessel while the vessel is engaged in harvest or has crawfish, sea cucumbers, sea urchins, shrimp, scallops, or clams aboard. The vessel operator shall submit the log for inspection on request by authorized representatives of the Lummi Natural Resources Department. Copies of logs must be received by the Department within ten (10) days of the end of each month in which harvest activity has occurred, and within ten (10) days of the termination of commercial fishing noting that the shellfish harvest has terminated for the year.

It shall be a violation of this title to fail to comply with shellfish log requirements punishable by civil penalties as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Third violation
\$100.00 to \$200.00

Subsequent violation
\$150.00 to \$300.00

Chapter 10.14 Clam, Oyster, Bivalve Harvest

10.14.010 Application

This section applies to any species of bivalve mollusk, including but not restricted to clams, mussels and oysters, unless otherwise specified.

10.14.0120 Legal Gear

It shall be lawful to take clams with handheld fork, rake, shovel, pick or any other un-mechanized device, unless otherwise specified by regulation/hotline.

10.14.030 Commercial Clam Harvester Identification

All persons taking or possessing clams for commercial purposes shall have in their possession the Treaty Fishing Identification

Card with a current Clam validation sticker as provided in Sections 10.04.020 and 10.04.030. Violations of this section shall be punishable according to the provisions of Section 10.04.050

10.14.040 Approved Commercial Harvest Areas

The taking of clams for commercial purposes is restricted for public health purposes to specific beach areas. The Director, in consultation with the Washington State Department of Health, shall identify the approved clam harvest areas with diagrams and area designations in contained in the Pre-season Regulations promulgated under Section 10.06.030.

10.14.050 Commercial Clam Openings

All areas are closed to commercial clam harvest unless opened by the regulation hotline pursuant to Section 10.06.050. Factors considered in opening a harvest are the tides, clam quality, and levels of biotoxins.

10.14.060 Commercial Clam Monitoring

All taking of clams for commercial purposes shall be under the supervision of an Official Monitor designated by the Lummi Natural Resources Department. The monitoring process requires:

(a) Each member taking clams for Commercial Purposes to check in with the Monitor during the first two hours of an opening and:

(1) Display his/her Fishing Identification Card validated for Clam harvest, and

(2) Upon request, demonstrate that no clams are being brought on to the beach and that the storage of the clams harvested will be in a sanitary manner.

(b) At the completion of the harvest or the opening, whichever comes first, the member to check out with the monitor and:

(1) Place his/her harvest in an Official Lummi Clam Harvest bag, and

(2) Have the monitor seal the bag and attach a Harvesters Bag Tag containing the harvesters Fishing Identification Number, date of harvest, the harvest area, the type of clams and the weight of clams. When more than one legal harvester has placed clams in a single bag or lot, the Fishing Identification Number of all harvesters shall be included on the Bag tag.

The monitor will not issue appropriate authorization to sell clams which have not been harvested under the terms and conditions of this title and applicable regulations.

10.14.070 Prohibitions

The following shall be a violation of this title:

(a) To possess an Official Lummi Commercial Clam Harvest Bag, except one that has been sealed and tagged by the Monitor, or

(b) While commercially harvesting manila and little neck clams from Drayton Harbor adjacent to Semiahmoo Spit from a point opposite of the Sewer Plant to 300 yards south of the Marina breakwater, Area 20A-1 to:

(1) Park a vehicle except in a designated area, or

(2) Harvest more than 75 pounds per harvester, or

(3) Leave the beaches without filling in deep holes, which have been dug.

(c) To possess manila or native little neck clams smaller than minimum size contained in regulations.

Each offense shall be punishable by civil penalties as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Third violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$300.00

10.14.080 Commercial Clam, Oyster, Bivalve Mollusk Harvest Definition

For the purposes of this title commercial clam, oyster, bivalve mollusk harvest shall be defined as:

(a) Possession outside of the home of more than 50 pounds in the shell of manila clams, native littleneck clams, butter clams, cockles, mussels or oysters, or more than 50 pounds per day of shucked horse clams, or

(b) The sale of any quantity of clams.

(c) The possession of any quantity of steamer clams from an unapproved area by a harvester with a commercial clam validation on his identification card.

10.14.090 On Reservation Subsistence Steamer Clam and Oyster Harvest

The harvest of steamer clams (Manilas and Native Littlenecks) and Pacific oysters for personal use shall be closed unless opened by regulation of the Lummi Natural Resources Department in consultation with the Commission. Subsistence harvesters may not operate the same general area as commercial harvesters during a commercial opening. Due to the potential for these animals to accumulate disease and chemical contaminants from their food and surrounding waters, it is recommended that subsistence harvesters check with the Lummi Natural Resources Department to determine the current status of shellfish harvest areas.

10.14.100 Off Reservation Subsistence Bivalve Harvest

Unless otherwise provided by regulation by the Director in consultation with the Commission, subsistence harvest of clams, except Manila Clams, is permitted year around on all public beaches, and those private beaches where owners have given written permission for tribal harvest, identified on maps in the Natural Resources Offices under permit issued by the Lummi Natural Resources Department to the head of a

subsistence harvest party. The permit, which shall be valid for one month, shall have the number in the harvest party, the area(s) and date(s) dug with the quantity of harvest by species. Subsequent permits will be conditioned upon return of completed previously issued permits.

10.14.110 Restricted Senior Clam Harvest Area

That portion of the reservation beach in Portage Bay adjacent to Lummi Shore Road east of the Pole at Victor Solomon's house known as 21A-S4 shall be reserved for the exclusive use of seniors.

Subsistence Harvest - Non-senior Lummi Citizens with a permit issued by the Lummi Natural Resources Department, may assist the seniors in harvesting their clams for subsistence purposes so long as their senior is in the immediate area of the beach and the harvest does not attain the level of a commercial harvest for the senior being assisted.

Commercial Harvest - Lummi senior citizens may harvest manila clams commercially when opened by regulation in this area. They may be assisted by a helper with a permit issued by the Lummi Natural Resources Department provided the helper is not also participating in the commercial harvest.

Violations of this section shall be punishable by civil penalties as follows:

First violation
\$100.00 to \$200.00

Second violation
\$250.00 to \$500.00 and loss of clam harvest privileges for one to two months.

Subsequent violations
\$500.00 to \$1000.00 and loss of clam harvest privileges until the violator, no sooner than one year from the judgement of the court, meets with the Council and Commission and has clam harvest privileges restored.

10.14.120 Ceremonial Clam and Oyster Harvest

The Director, or his designee, may issue a permit for ceremonial harvest in excess of 50 pounds per harvester for funeral, memorial, or other ceremonial purposes approved by the Commission. This permit shall contain the names of the harvesters, the purpose of the harvest, the area of the harvest, the amount and the type of clams to be harvested, and the date of the harvest and require the harvesters to identify their vehicle as being used in a ceremonial clam or oyster harvest. At the expiration of the permit, the permittee shall report the area, and date of harvest and the quantity of each clam harvested. Failure to return completed permits may jeopardize the opportunity to obtain subsequent permits

10.14.130 Commercial Harvest of Oysters and Butter Clams Prohibited

It shall be a violation of this title to sell, attempt to sell, to use in commercial fishing operations or to possess quantities of oysters and butter clams in commercial quantities punishable by civil penalties as follows:

First violation
\$100.00 to \$200.00

Second violation
\$250.00 to \$500.00 and loss of harvest privileges for one to two months.

Subsequent violations
\$500.00 to \$1000.00 and loss of all clam harvesting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise clam harvesting privileges again.

10.14.140 Clam Aquaculture

Any clam, oyster or other bivalve mollusk aquaculture operation under the jurisdiction of this title shall observe the provisions of the Clam Sanitation Program Chapter, and ensure that operations do not introduce organisms which will disturb the productive capacity of naturally growing clams of economic interest to Lummi or the water quality in harvest areas of economic importance to Lummi. The Director may establish, by regulation, reporting requirements from clam aquaculture

operations to ensure that the intent of this section is observed.

Chapter 10.15 Clam Sanitation

10.15.010 Commercial Harvest in Unapproved or Prohibited Areas

It is unlawful to harvest clams or other mollusks for sale from areas which have been unapproved, or prohibited for public health reasons.

Violations of any provision of this section shall be punishable by civil penalties as follows:

First violation

\$300.00 to \$600.00 and forfeiture of gear and all clam harvesting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise clam harvesting privileges again.

10.15.020 Commercial Harvest without Proper Monitoring

It shall be a violation of this title to:

(a) Provide false information to a monitor concerning the origin of clams being monitored for sale, or

(b) To possess any clams in a monitored area that have not been taken from that area during the current monitoring period, or

(c) To offer for placement into an official Lummi Commercial Clam Harvest Bag any clams which have not been harvested by a member with the Fishing Identification card currently validated for clam harvest pursuant to Section 10.04.030 who has not checked in with the monitor prior to the current harvest, or

(d) To combine or attempt to combine unmonitored clams with appropriately monitored clams at the buyer's station at the time of sale.

(e) To solicit the aid of a Lummi Fisher with clams which have been appropriately monitored to sell clams, which have not been

appropriately monitored.

Violation of this section shall be punishable by civil penalties as follows:

First violation

\$300.00 to \$600.00 and forfeiture of gear

Second violation

\$600.00 to \$1,200.00, forfeiture of gear, and all clam harvesting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise clam harvesting privileges again.

10.15.030 Shellfish Sanitation Program Regulations

The Director, in consultation with the Commission, the Washington State Department of Health and the federal Food and Drug Administration may promulgate regulations required to implement an agreed program to protect the public health through control of bivalve mollusk harvest and marketing under the jurisdiction of the Lummi Nation. The penalties for violation shall be contained within the regulations.

Violation of any provision of a regulation filed pursuant to this section shall be punishable by civil penalties as follows unless otherwise specified:

First violation

\$300.00 to \$600.00 and forfeiture of gear and all clam harvesting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise clam harvesting privileges again.

Chapter 10.16 Miscellaneous Shellfish Fisheries

10.16.010 Subsistence Squid and Octopus Fisheries

Subsistence Squid and Octopus Fisheries on and off reservation will be opened with a limit of 2 octopus and 10 pounds of squid per day, unless otherwise specified by regulation issued pursuant to Chapter 10.06.

**10.16.020 Miscellaneous Commercial
Fisheries**

Commercial fisheries for squid, octopus, other cephalopods, sea cucumbers, sea urchins, and other shellfish not otherwise provided for in this title shall be closed unless opened by regulation issued pursuant to Chapter 10.06.

**10.16.030 Miscellaneous Shellfish
Commercial Harvest Penalties**

The penalties for commercial harvest of the shellfish subject to this Chapter:

(a) Harvesting without appropriate authorization as provided for in regulations shall be as follows:

First violation
\$300.00 to \$600.00 and forfeiture of gear

Second violation
\$600.00 to \$1,200.00, forfeiture of gear, and all clam harvesting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise clam harvesting privileges again.

(b) Violation of provisions of a permit shall be as follows:

First violation
\$ 25.00 to \$ 50.00

Second violation
\$ 50.00 to \$100.00

Third violation \$100.00 to \$200.00

Subsequent violation
\$150.00 to \$300.00

Chapter 10.17 Hunting

**10.17.010 Lawful Off Reservation
Hunting**

No person subject to the jurisdiction of the Lummi Nation shall hunt under the authority of the Lummi Nation off of the Lummi Reservation except in compliance with this title and regulations adopted pursuant to this title. Violations shall result in civil penalties, which must be paid in order to retain the

privilege of exercising the treaty hunting rights of the Nation. In the event of a violation of any portion of this Chapter, which does not specify a penalty, a civil penalty as follows will apply:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00

Subsequent violation
\$150.00 to \$300.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again, and loss of hunting. Notwithstanding any other provisions of this Chapter, the Lummi Tribal Court, at its discretion, may suspend the hunting privileges of any person convicted of any offense under this title. Such suspension shall be for a specified number of hunting days set by the court.

**10.17.020 Commercial Hunting
Forbidden**

It shall be unlawful for any citizen of the Lummi Nation to sell or exchange for monetary value, offer to sell or exchange for monetary value or hunt for or possess with intent to sell or exchange for monetary value, the meat of any wild animal, except marine mammals, provided that the reimbursement to a hunter of his actual expenses for fuel, ammunition and the like, by a Lummi tribal member or tribal group on whose behalf he has been designated to hunt, shall not be considered to be a sale or exchange for value.

Violations of this section shall be punishable by civil penalties as follows:

First violation
\$300.00 to \$600.00

Second violation
\$600.00 to \$1,200.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

Subsequent violations
\$1,200.00 to \$2,000.00 and loss of hunting
privileges for 1 to 2 years.

10.17.030 Lawful Off Reservation Hunting Areas

It shall be lawful for members of the Lummi Nation to hunt off the Lummi Indian Reservation, on all open and unclaimed lands as that term is used in the Treaty of Point Elliott, and on such other lands where the land owner does not object to such hunting and on all waters of the Lummi usual and accustomed fishing areas. Hunting on other lands is prohibited. The Lummi Natural Resources Department may issue regulations pursuant to Section 10.06.080 designating sub-areas within the open and unclaimed lands for management purposes and exclude portions of such areas from the hunt where necessary for conservation, natural resource protection or public safety.

10.17.040 Lawful Off Reservation Hunting Times

The general off reservation subsistence hunting season shall commence September 1 and continue through August 31 of the following year, subject to regulations promulgated pursuant to Section 10.06.080. No hunting shall take place earlier than one hour before sunrise or later than one hour after sunset on any day, except as may be specifically allowed in limited ceremonial hunts as defined and regulated in Section 10.17.080 of this title.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$300.00 and loss of all hunting
privileges until the violator, after a period of
one year, meets with the Council and the
Commission and receives permission to
exercise hunting privileges again.

10.17.050 Off Reservation Subsistence Hunting Permit

The Lummi Natural Resources Department may issue a permit to a citizen of the Lummi Nation to hunt for subsistence purposes in off reservation areas from September 1 until August 31 of the following year under the following terms and conditions:

- (a) The applicant has a valid identification card issued pursuant to Section 10.04.010,
- (b) The applicant was in compliance with all requirements of prior permits,
- (c) The applicant pays the fee established by the Commission,
- (d) The applicant has not had his or her hunting rights suspended by the order of the tribe or the tribal court, and
- (e) The applicant has accurately completed an application on a form provided by the tribe, which includes the applicant's name, address, tribal membership number, telephone number, birthdate, age, height, weight and other identifying information required.
- (f) The applicant has returned all hunting tags issued pursuant to Section 10.17.110

10.17.060 Designated Hunter

A citizen of the Lummi Nation wishing to exercise his/her treaty hunting rights may designate a citizen of the Lummi Nation to hunt on their behalf by following the process outlined in Section 10.17.050 for both the tribal member and the designated hunter. A tribal member may be a designated hunter for only one tribal member at a time.

10.17.070 Disabled Persons Permit

A permanently disabled citizen of the Lummi Nation who is unable to be mobile without the assistance of a wheelchair or crutches may apply for a Disabled Hunter Permit with the Lummi Natural Resources Department following the procedures in Section 10.17.050. The disabled hunter must comply with all other terms and conditions of this title except as follows:

(a) May hunt from a vehicle off a public highway if the vehicle is stopped and if motor is turned off.

(b) A non-disabled companion may assist pursuant to the conditions in Section 10.17.100 by killing game wounded by the disabled hunter, or tagging and retrieving game killed by a disabled hunter.

10.17.080 Ceremonial Hunting Permits

The Lummi Natural Resources Department may issue special hunting permits for funeral, memorial, religious or other ceremonial purposes approved by the Commission provided the applicant meets the following terms and conditions:

(a) The applicant must be an citizen of the Lummi Nation and must sign an application in front of a Commissioner or a designee of the Commission,

(b) The permit must be signed by a person authorized by the Commission,

(c) The applicant must indicate the purpose of the hunt, and give the date, time and place of the event,

(d) The applicant must provide the name and Lummi tribal enrollment or hunting and fishing identification numbers of the applicant and each person who will be hunting or assisting in the hunt,

(e) All persons on the hunt must carry on their person the identification card issued pursuant to Section 10.04.010 and a copy of the ceremonial hunting permit,

(f) All persons on the hunt must hunt as a group, or be in radio contact at all times,

(g) The applicant assumes the full responsibility for the actions of those participating in or assisting in the hunt,

(h) The permit is limited to a maximum of four deer or one elk and shall be good for two days hunting only. The hunting days shall be specified in the permit, but if no days are

specified, the permit shall expire one hour after sunset two days after the date the permit is issued.

(i) The applicant must return all permits to the Natural Resources Office within one (1) working day of the expiration of the permit, with the species, gender and approximate size of each animal taken, and the name of the hunter taking each animal.

The Commission may require the Lummi Natural Resources Department to include other terms and conditions in the Ceremonial Hunting Permit. If the permit quota is not filled before the expiration of the permit, a supplemental ceremonial hunting permit may be issued by the Lummi Natural Resources Department to the applicant for the unfilled portion of the quota, provided that the applicant follows the procedures outlined above.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$100.00 to \$200.00

Second violation
\$200.00 to \$400.00

Subsequent violations
\$300.00 to \$600.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.090 Permit, Tags, and Identification Required

It shall be unlawful for any Lummi citizen to hunt under the authority of the Lummi Nation without having in his/her possession the appropriate permits, tags (if required) and the Lummi Nation Treaty of Point Elliott identification card issued pursuant to Section 10.04.010.

(a) Violation of any provision of this section by a Lummi Citizen who has the necessary permits and tags and identification card but is not carrying them while hunting shall be

punishable by civil penalties as follows:

First violation..... \$ 50.00 to \$100.00

Second violation.....\$100.00 to \$200.00

Subsequent violations.....\$150.00 to \$300.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

(b) Violation of any provision of this section by a Lummi Citizen who is eligible for but has not obtained the necessary permits and tags shall be punishable by civil penalties as follows:

First violation
\$200.00 to \$400.00

Second violation
\$400.00 to \$600.00

Subsequent violations
\$800.00 to \$1,000.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

(c) Violation of any provision of this section by a Lummi Citizen whose hunting privileges are revoked by the Court, or who cannot meet the conditions for the appropriate permits is punishable by forfeiture of all animals taken in violation of this title, and all hunting equipment and gear, including boats, motors, and vehicles used in the commission of the violation, by a civil penalty of no less than \$3000.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.100 Assistance

It shall be a violation of this title for any member of the Lummi Nation to be accompanied by or assisted by any other person while hunting unless that person is either:

(a) A member of a Treaty tribe having hunting rights in the area where the hunting is taking place, permitted by that tribe to hunt in that area at that time, and having in his or her possession a valid tribal or Bureau of Indian Affairs identification card attesting to such membership;

(b) A citizen of the Lummi Nation with a valid Lummi Nation Treaty of Point Elliott identification card issued pursuant to Section 10.04.010, or

(c) A citizen of the Lummi Nation with a valid hunting or designated hunter's permit.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 100.00 to \$200.00

Second violation
\$300.00 to \$400.00

Subsequent violations
\$500.00 to \$700.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.110 Issuance of Hunting Tags

(a) The Lummi Natural Resources Department may upon payment of a refundable fee of \$10.00 issue to permitted hunters, Lummi Hunting Tags with the following information:

(1) A hunting permit number and the type of permit, and the name of the designated hunter, if applicable,

(2) The types of animal for which the tag may be valid; only one animal may be harvested on a single tag,

(3) The dates when the tag is valid, and

(4) The signature of the authorizing official.

(b) The tags may be issued one at a time and the fee shall be refunded in full or exchanged for a new tag to the permittee upon presentation to the Lummi Natural Resources Department of:

- (1) An unused tag, or
- (2) A properly validated used tag.

10.17.120 Hunting Tag Requirements

Each hunter shall:

- (a) Have in his possession while hunting an appropriate Lummi hunting tag, but no more than bag limits for two persons, the hunter and as the designated hunter for another citizen issued pursuant to section 10.17.110 (a),
- (b) Validate the Lummi Hunting Tag by notching the month and the day of the kill and the writing in the area of the kill prior to moving the animal,
- (c) Attach a validated Lummi Hunting Tag to any carcass in his possession as soon as the carcass is placed in a vehicle for transit and ensure that it remains attached during transit and storage, and
- (d) Return the validated hunting tag to the Lummi Natural Resources Department.
- (e) Return all unused tags to the Natural Resources by March 1 following the hunting season,
- (f) Not have in possession while hunting any tags, which have expired.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$300.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the

Commission and receives permission to exercise hunting privileges again.

10.17.130 Marine Mammal Hunting Tags

After determining in annual regulations promulgated under Chapter 10.06 that a harvestable number of any species of marine mammal exists, the Lummi Natural Resources Department may issue tags to Lummi citizens with hunting permits for the taking of specific marine mammals up to the limit identified in the annual regulation or if the season should be otherwise closed by emergency regulation of the Lummi Natural Resources Department. The number of animals taken incidentally to fisheries will be included in the total permitted take each year. Regulations may require that the animals be presented for biological examination by the Lummi Natural Resources Department. The meat and other parts of the marine mammals taken pursuant to a valid tag may be sold, and traditional handicrafts utilizing parts of such marine mammals may be sold.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$300.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.140 Firearm Restrictions

It shall be unlawful for any citizen of the Lummi Nation to use firearms of a type or in a manner as specified below in any lawful hunt:

- (a) A fully automatic firearm.
- (b) A shotgun, except that shotguns from 10 to 20 gauge, using shells loaded with slugs or buckshot size #1 or larger, may be used to hunt deer and bear.

(c) A handgun, except that deer, bear, or cougar may be hunted with a .41 magnum, .44 magnum, .44 automatic magnum, .45 Winchester magnum, or any handgun of a .240 caliber or larger using a centerfire cartridge with a minimum overall length (including bullet) of 2 inches. All handguns shall have a minimum barrel length of 6 inches, and use a centerfire cartridge, which is loaded with a mushrooming or expanding type bullet of 100 grains or heavier bullet weight.

(d) A rifle with a bore diameter less than .240 of an inch (6mm) or barrel length less than 15 inches, except that for deer only, a rifle using a .222 cartridge which is loaded with a mushrooming or expanding type bullet may be used.

(e) A rifle with a cartridge having:

(1) A bullet weighing less than 50 grains, or that develops less than 900 foot-pounds of energy at 100 yards.

(2) A bullet other than a mushroom or expanding type designed for big game hunting.

(f) A muzzle loader except a single or double barrel wheellock, matchlock, flintlock or percussion rifle or musket with exposed ignition in which the black powder and ball or bullet must be loaded from the muzzle. If the rifle has a removable breech plug, such removal must require the use of tools. Minimum barrel length is 20 inches; minimum caliber is .40. Sights must be metal without glass or telescopic elements.

(g) A muzzle loader during a special primitive muzzle loader season with more than one barrel loaded or using any black powder substitute.

(h) A firearm with a trigger pull of less than 2 pounds.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 50.00 to \$100.00

Second violation
\$100.00 to \$200.00

Subsequent violations
\$150.00 to \$300.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.150 Bow and Arrow Restrictions

It shall be unlawful for any citizen of the Lummi Nation to use bows and arrows other than those specified below in any lawful hunt or as otherwise provided by regulation:

Bows shall have at least 40 pounds of pull measured at 28 inches or less draw length or has a greater than 65% reduction (let off) in holding weight at full draw.

Arrows shall have sharp broadhead blades(s) at least 7/8 inches wide. The broadhead must be unbarbed and completely closed at the back end of the blade(s) by a smooth unbroken surface starting at maximum blade width forming a smooth line toward the feather end of the shaft and such line does not angle toward the point. Retractable styled broadheads are illegal

10.17.160 Prohibited Hunting Practices

It shall be unlawful to commit any of the following acts during an off reservation big game hunt under the authority of the Lummi Nation:

(a) To use artificial light, except under special permit authorized under Section 10.17.080.

(b) To be under the influence of alcohol or intoxicating drugs.

(c) To carry any loaded firearm within or on a motor vehicle.

(d) To fire any firearm from, along or across any public road.

(e) To be accompanied by a dog that harasses or otherwise disturbs wildlife while hunting for deer or elk.

(f) To hunt for, to possess or control protected wildlife or endangered species.

(g) To use aircraft to spot, locate, or report the location of wildlife for the purpose of hunting big game on the same day.

(h) To use a vehicle, aircraft, or boat to pursue, or harass wild animals.

(1) To hunt wildlife from a vehicle, or from a boat propelled by a motor, unless the boat's motor is shut off and progress due to the motor has stopped.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$300.00 to \$600.00

Second violation
\$500.00 to \$1,000.00

Subsequent violations
\$750.00 to \$1,500.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.170 Game Management Checks

All hunters under the jurisdiction of the Lummi Nation are required to:

(a) Stop at any check station authorized by the Lummi Natural Resources Department with Commission approval to cooperate in the management of game animals and enforcement of this Chapter including but not restricted to a Washington State Department of Wildlife or other law enforcement established check station, and

(b) Produce wildlife in the hunter's possession, or to produce licenses, permits, tags, stamps or punchcards required by this Chapter to any Lummi Enforcement Officer or enforcement officer authorized by the Lummi Natural Resources Department with the approval of the Commission.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$ 100.00 to \$200.00

Second violation
\$200.00 to \$300.00

Subsequent violations
\$400.00 to \$500.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.180 Waste of Game Animals Prohibited

It shall be unlawful for any citizen of the Lummi Nation who kills any game animal to leave any portion of the meat in the field or otherwise waste the meat of a game animal.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$500.00 to \$1,000.00

Second violation
\$750.00 to \$1,500.00

Subsequent violations
\$1,000.00 to \$2,000.00 and loss of all hunting privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to exercise hunting privileges again.

10.17.190 Protection of Wildlife

It shall be unlawful to destroy or possess the nests of game birds, or protected wildlife as identified by Lummi Natural Resources Department.

Violation of any provision of this section shall be punishable by civil penalties as follows:

First violation
\$300.00 to \$500.00

Second violation
\$500.00 to \$1,000.00

Subsequent violations
\$750.00 to \$1,000.00 and loss of hunting
privileges for one (1) year.

10.17.200 On-Reservation Hunting

The Director in consultation with the Commission may issue regulations governing hunting within the exterior bounds of the Lummi Reservation.

Chapter 10.18 Forestry

10.18.010 Management Authority

The Lummi Natural Resources Department shall be responsible for the management and preservation of the forestry resources within the exterior boundaries of the Lummi Reservation through this Chapter and regulations promulgated under Section 10.06.090.

10.18.020 Removal of Forestry Resources

It shall be unlawful for any person to harvest or assist in the harvest of any standing green timber, including Christmas trees, or any downed firewood or other forestry product on any lands or beaches within the exterior boundaries of the Lummi Reservation without a permit from the Lummi Natural Resources Department. When a permittee violates terms and conditions of a permit relating to area and time of harvest, he/she shall be considered to be acting in the absence of a permit and dealt with under the appropriate section of this Chapter

10.18.030 Permit for Non-Commercial Firewood from Tribal (LIBC) Land

The Lummi Natural Resources Department may issue permit to citizens of the Lummi Nation for the non-commercial cutting of firewood on tribal land, except that no permits will be issued for cutting firewood on Portage Island, except under special permit by the Director in consultation with the Commission, under the following terms and conditions:

(a) A fee of \$10.00 is paid.

(b) Permits are limited to three (3) cords per family per year for personal use not for sale.

(c) The applicant is an enrolled member of the Lummi Nation.

(d) No persons other than enrolled members of the Lummi Nation shall assist in the cutting of firewood.

(e) Cutting is restricted to the area and the property described on the permit.

(f) The permit is available at the work site with the identification card issued pursuant to Section 10.04.010 for each person working under the permit.

(g) Cutting is restricted to Red Alder, Maple, Birch, and other hardwoods.

(h) All firewood in the work area must be cut and removed before moving to a new area, and all roads and ditches are to be kept free of tops and other slash at all times.

(i) Trees must be utilized to a 4-inch top, and stumps must be cut shorter than the tree's diameter.

(j) Permits will be valid only during specific time periods identified on the permit.

(k) The permittee assumes all risk of injury or loss arising out of the use of the permit or the entry onto tribal land, and all roads, rights of way, easements, or similar access roads owned, constructed or maintained by the Lummi Nation.

(l) Any other conditions established by the Lummi Natural Resources Department and approved by the Commission and the Council.

Failure to observe any condition of this section or permit issued pursuant to this section shall be a violation punishable by civil penalties as follows:

First violation
\$ 50.00 to \$500.00

Second violation
\$100.00 to \$2,000.00 and loss of all firewood permit privileges until the violator, after a period of one year, meets with the Council

and the Commission and receives permission to receive woodcutting permits again.

10.18.040 Permit for Non-Commercial Firewood from Assignment Land

The Lummi Natural Resources Department may issue permits to citizens of the Lummi Nation for the non-commercial cutting of firewood on assignment land under the following terms and conditions:

(a) The applicant is an enrolled member of the Lummi Nation who owns the assignment land where the wood is to be cut or has approval in writing from 51% of the registered owners of the land.

(b) No persons other than enrolled members of the Lummi Nation shall assist in the cutting of firewood.

(c) Cutting is restricted to the area and times specified on the permit.

(d) The permit is available at the work site with the Lummi Nation Treaty of Point Elliott identification card issued pursuant to Section 10.04.010 for each person working under the permit.

(f) Cutting is restricted to Red Alder, Maple, Birch, and other hardwoods.

(g) All firewood in the work area must be cut and removed before moving to a new area, and all roads and ditches are to be kept free of tops and other slash at all times.

(h) Trees must be utilized to a 4-inch top, and stumps must be cut shorter than the tree's diameter.

(i) The permittee assumes all risk of injury or loss arising out of the use of the permit or the entry onto the assignment land, and all roads, rights of way, easements, or similar access roads owned, constructed or maintained by the Lummi Nation.

(i) Any other conditions established by the Lummi Natural Resources Department and approved by the Commission and the Council.

(j) The harvest is restricted to less than 10 cords in any one season. Harvest of more than 10 cords will require a timber-cutting permit.

Failure to observe any condition of this section or permit issued pursuant to this section shall be a violation punishable by civil penalties as follows:

First violation
\$ 50.00 to \$500.00

Second violation
\$100.00 to \$2,000.00 and loss of permit privileges for six months to one (1) year and forfeiture of wood.

Subsequent violations
\$200.00 to \$5,000.00 and loss of all fire wood permit privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to receive woodcutting permits again, and forfeiture of wood, saws, and equipment.

10.18.050 Permit for Driftwood Use from Lummi Tidelands

The Lummi Natural Resources Department may issue a permit allowing the cutting of driftwood and logs found on the tidelands within the exterior boundaries of the Lummi Reservation, that area seaward of the natural vegetation or the meander, whichever be more, under the following terms and conditions:

(a) Fees are paid as follows:
Personal use, no charge
Firewood to be sold, \$7.50 per cord
Cedar shakes to be sold, \$15.00 per cord.

(b) Permits are limited to fifteen (15) cords.

(c) The applicant is an enrolled member of the Lummi Nation.

(d) No persons other than enrolled members of the Lummi Nation shall assist in the cutting or handling of the wood.

(e) Cutting and removal of wood is restricted to reservation tidelands except around Portage Island, and islands within the Nooksack River

(i.e. McNeil Island).

(f) Every effort is to be made to avoid conflicts with the upland owners.

(g) Cutting is restricted to all driftwood and logs not clearly identifiable as being owned by another party.

(h) The permittee will hold harmless the LIBC for any actions of the permittee or his employees or damages occurring while on tribal lands.

(i) The permittee assumes all risk of injury or loss arising out of the use of the permit or the entry onto tribal land.

(j) The permit and the Lummi Nation Treaty of Point Elliott identification card issued pursuant to Section 10.04.010 for every person working under the permit shall be available at the work site.

(k) Permits will be valid only during specific time periods identified on the permit.

(l) Any other conditions established by the Lummi Natural Resources Department and approved by the Commission and the Council.

Failure to observe any condition of this section or permit issued pursuant to this section shall be a violation punishable by civil penalties as follows:

First violation
\$ 50.00 to \$500.00

Second violation
\$100.00 to \$2,000.00 and loss of all fire wood permit privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to receive woodcutting permits again.

10.18.060 Permits for Harvest of Miscellaneous Forestry Products on Tribal (LIBC) Lands

The Lummi Natural Resources Department may issue permits for the harvest of forestry products, including but not restricted to cedar boughs and cedar bark, from tribal lands, and

open and unclaimed off reservation lands, to enrolled members of the Lummi Nation with terms and conditions as may be approved by the Commission.

Failure to observe any condition of this section or permit issued pursuant to this section shall be a violation punishable by civil penalties as follows:

First violation
\$ 50.00 to \$500.00

Second violation
\$100.00 to \$2,000.00 and loss of all permit privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to receive permits again and loss of permit .

10.18.070 Forest Practices Review Process

Applications for the harvest or clearing of forest lands shall be submitted to the Planning Department for review under the land use process which will involve review by agencies other than the Lummi Natural Resources Department. Before the Lummi Natural Resources Department may issue a permit for the harvest or clearing of forest lands under the jurisdiction of this Chapter, it shall review the impact of the permitted activity on water quality, wildlife and fish habitat values using standards developed by the Director of Natural Resources in consultation with the Commission.

Permits shall be conditioned to mitigate where impacts would reduce these values below acceptable levels. The party requesting a permit shall be responsible for submitting an initial statement of the potential impacts of the proposed actions and specific measures to minimize or mitigate for potential adverse impacts. The Lummi Natural Resources Department shall review the proposal and after consulting with the other parties involved in the Planning Department Land Use review process approve it, as submitted. Or, after discussions with the party requesting a permit, and a site visit recommend other conditions prior to the issuance of a permit.

The Lummi Natural Resources Department shall develop a permit application form for each permitted activity to ensure that the necessary information is provided to ensure a reasonable decision concerning the impacts of the proposed activity on resources of concern.

10.18.080 Timber Cutting Permit

The Lummi Natural Resources Department may issue permits for the harvest of commercial timber on all tribal and assignment lands with the following terms and conditions:

- (a) Only timber designated by the Lummi Natural Resources Department may be cut.
- (b) Every effort shall be made to reduce waste by leaving small stumps and cutting carefully. Any waste may be scaled and charged to the permittee.
- (c) Young growth shall be protected.
- (d) Slash from the cutting operations, including limbs, tops, damaged young growth and other material, must be piled neatly away from reserve trees.
- (e) Slash burning may be done at times and in a manner as required by the Lummi Natural Resources Department.
- (f) Fire suppression and prevention equipment may be required, and shall be placed at the disposal of the Lummi Natural Resources Department at cost if required.
- (g) Permittee will be liable for any and all damages and costs caused by his neglect or operations to timber and any other property.
- (h) The permittee is subject to the jurisdiction of the Lummi Tribal Court and shall be responsible for any and all legal fees imposed or incurred.
- (i) A bond may be required, and not released until the area has been inspected for compliance with requirements by the Lummi Natural Resources Department.
- (j) The permittee must have a Lummi Natural

Resources Department truck ticket filled out at the permits site and attached to each load of logs leaving the exterior bounds of the Reservation.

(k) The truck ticket and associated records must be made available for inspection by the Natural Resources Enforcement Patrol and Lummi Natural Resources Department staff as required.

(l) Truck Tickets and the Mills report on scaled timber received by truck load, must be sent to the Lummi Natural Resources Department as required.

(m) Any timber which has not been identified by the Lummi Natural Resources Department for harvest or is taken from sites not authorized by the Lummi Natural Resources Department shall be charged at triple stumpage rates.

(n) In the case of assignment land, the applicant must be an enrolled member of the Lummi Nation who owns the assignment land where the wood is to be cut or has approval in writing from 51% of the registered owners of the land.

Failure to observe any condition of this section or permit issued pursuant to this section shall result in forfeiture of all or part of any bond posted and shall be a violation punishable by civil penalties as follows:

First violation
\$ 500.00 to \$2,000.00

Second violation
\$2,000.00 to \$10,000.00, forfeiture of wood and loss of permit privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to receive permits again.

10.18.090 Permits for Harvest on Non-tribal Lands

The Lummi Natural Resources Department may issue permits without fee for the harvest or removal of any forestry resources on non-tribal lands within the exterior boundaries of the Lummi Reservation to people other than

Lummi Citizens who meet the following terms and conditions:

(a) Produces signed permission for the proposed activity from all of the owners of record of the land where it is to be conducted.

(b) Produces a plan for the activity which details, among other things, the use of the products harvested, the period in which the harvest is to occur, site clean up activities, and plans for reforestation, and any other condition deemed appropriate by the Lummi Natural Resources Department in consultation with the Commission.

(c) Any other terms and conditions for the conservation and enhancement of the reservation forestry resources deemed necessary by the Lummi Natural Resources Department in consultation with the Commission.

Failure to observe any condition of this section or permit issued pursuant to this section shall be a violation punishable by civil penalties as follows:

First violation
\$ 50.00 to \$500.00

Second violation
\$100.00 to \$2,000.00 and loss of permit forfeiture of wood and loss of permit privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to receive permits again.

10.18.100 Fire Suppression Authority

The Lummi Natural Resources Department on approval of the Commission in the interest of protection of the forest resources on the reservation may issue regulations governing burning within the exterior boundaries of the Lummi Reservation during periods of extreme danger due to dry weather and/or scarce water reserves. These regulations may include but shall not be limited to:

(a) An open burning ban.

(b) The requirement for a permit for open

burning with terms and conditions required for fire protection.

(c) Provide requirements for safe burning.

Notice of the implementation of regulations under this section shall be posted conspicuously at the Natural Resources Office and around the Reservation.

Failure to observe any regulation or term or condition of a permit issued pursuant to this section shall be a violation punishable by civil penalties as follows:

First violation
\$ 50.00 to \$500.00

Second violation
\$100.00 to \$2,000.00, forfeiture of wood and loss of permit privileges until the violator, after a period of one year, meets with the Council and the Commission and receives permission to receive permits again.

Chapter 10.19 Enforcement

10.19.010 Enforcement

This title and all regulations issued pursuant to it shall be enforced by the Lummi Natural Resources Enforcement Patrol, Lummi Tribal Law Enforcement personnel, and by any other person authorized by the LIBC.

[Editor's Note: Chief of Police authorized to supervise Natural Resources Enforcement Officers. Resolution 96-60 (3/26/95)]

10.19.020 Lummi Natural Resources Enforcement Patrol

The Lummi Natural Resources Enforcement Patrol shall consist of an administrator, a sergeant, and several enforcement officers with the general duties and responsibilities as set forth in the following sections. These positions are subject to the Personnel Policies of the LIBC, including, but not limited to, hiring, supervision, pay, discipline and grievances. The Chief of Lummi Law and Order shall be responsible to the Council and the Commission for the effective execution of the objectives of the Natural Resources Enforcement Patrol.

10.19.030 Natural Resources Enforcement Patrol Administrator

The Chief of Lummi Law and Order shall serve as the Natural Resources Enforcement Administrator (Administrator). The Administrator shall be responsible, to:

- (a) Coordinate the hiring and Commissioning of Patrol Officers,
- (b) Supervise, provide oversight, evaluate and discipline the Natural Resources Patrol Sergeant (Sergeant) as required,
- (c) Develop a Natural Resources Enforcement Plan for each species of interest in accordance with the specific sections of this title,
- (d) Identify code changes required to ensure implementation and enforcement of Commission policy,
- (e) Develop the Patrol budget, and provide oversight signatures for expenditures under that budget, including pay,
- (f) Personnel actions affecting the Patrol,
- (g) Assist the Sergeant in the administrative supervision of the Patrol Officers,
- (h) Develop a system of reporting enforcement activities, citations and the outcome of court actions initiated by the Patrol and providing summaries at regular intervals,
- (i) Develop, in consultation with Officers, other Natural Resources Enforcement Agencies, the Lummi Law and Order Administrator, Commission and Council, qualification standards for the Natural Resources Enforcement Patrol Officers,
- (j) Identify training programs in consultation with the Law and Order Administrator for maximum efficiency to ensure the maintenance of quality enforcement,
- (k) Ensure that the uniformed Patrol becomes and remains fully qualified as Natural Resources Enforcement Officers, and

(l) Develop a memorandum of understanding covering the circumstances under which Law and Order Officers would assist Natural Resources Enforcement Officers and the nature of that assistance, as well as the circumstances under which Natural Resource Enforcement Officers would assist Law and Order Officers and the nature of that assistance.

10.19.040 Natural Resources Enforcement Patrol Sergeant

The Natural Resources Enforcement Patrol Sergeant (Sergeant) shall be the senior uniformed officer of the Patrol and shall be the primary supervisor of the other Patrol Officers. This primary responsibility is to the Administrator or his designee. In the presence of conflicting instructions from the Administrator or his designee, Commissioners, or Council Members the Sergeant will seek clarification from the Administrator or his designee. The Sergeant shall be a fully qualified Natural Resources Law Enforcement Officer and receive periodic training to ensure that this quality is maintained. The Sergeant shall be fully familiar with Titles 5, 10 and 13 of the Lummi Code of Laws. The Sergeant will be responsible for:

- (a) Scheduling patrol activities to ensure that the Natural Resources Enforcement Plans are fully implemented in accordance with the instructions of the Administrator and provisions of the title.
- (b) Participation in routine patrol duties.
- (c) Provide guidance to and supervision of other Patrol Officers, including evaluation.

10.19.050 Natural Resources Enforcement Patrol Officers

Natural Resources Enforcement Patrol Officers (Patrol Officers), shall be fully qualified, uniformed Natural Resources Law Enforcement Officers. The responsibility of the Patrol Officers shall be to enforce Title 10, by being a highly visible, courteous but firm presence in all areas and at times assigned by the Sergeant. Patrol Officers shall report to

the Sergeant and obey lawful orders received from the Sergeant. Patrol Officers shall maintain a daily log of activities and prepare written incident reports for all contacts with the public requiring enforcement action. Patrol Officers shall prepare citations for all violations of this title and in those cases in which their professional judgment dictates, make arrests in accordance with this Title and Title 5 of the Lummi Code of Laws.

10.19.060 Natural Resources Enforcement Patrol Auxiliary Officers

Natural Resources Enforcement Auxiliary Officers (Auxiliary Officers) may be incorporated into the Enforcement Patrol by the Administrator. The objective of the Auxiliary Officers will be to support and supplement the work of the Enforcement Officers when required or when duties may be more efficiently discharged by a non commissioned volunteer, part time or seasonal worker. The Auxiliary Officer will provide an opportunity for additional Lummi Citizens to consider a career in Natural Resources Enforcement and provide initial training required to advance this objective. The auxiliary Officers will be under the direct supervision of the Sergeant and the Patrol Officers to whom they are assigned.

10.19.070 Coordination with Outside Natural Resources Enforcement Agencies

Any law enforcement officer whether tribal, state, federal or other, entering the reservation to investigate or enforce any laws associated with natural resources or their harvest subject to Title 10 against citizens of Lummi under the jurisdiction of the Lummi Nation, shall check in with the Natural Resources Enforcement Administrator or his designee, or in his absence with the Officer on duty. In off reservation areas, such offices will notify in writing when possible or verbally when necessary any action to investigate or enforce any laws associated with natural resources or their harvest subject to Title 10 against citizens of Lummi under the jurisdiction of the Lummi Nation.

10.19.080 Natural Resources Enforcement Committee

A committee of the Fisheries and Natural

Resources Commission shall oversee the activities of the Natural Resources Enforcement program and report to the Commission and the Council on a quarterly basis the performance of the patrol and policy modifications which might increase the effective use of resources to accomplish objectives. They shall also coordinate, when required, with the Law and Order Committee. The Commission shall review personnel actions proposed by the Natural Resources Enforcement Patrol Administrator within 5 days of a written report of the proposal action and concur or object to the action, subject to Tribal regulations and final disposition by the Council.

10.19.090 Enforcement Powers

Any officer empowered to enforce this title shall have the following powers:

(a) To stop, question and search suspected violators (including non-citizens on tribal lands within the exterior boundaries of the Lummi Reservation), and their vehicles, including boarding of boats where necessary.

(b) To seize any natural resource taken illegally as provided in this Title, at the time of violation, or any fishing gear, hunting gear, boats and vehicles used or processed during the commission of a violation of this title, or tribal regulations.

(c) Collect and preserve evidence, issue a warning, or cite suspected violators (including non-citizens on tribal lands within the exterior boundaries of the Lummi Reservation) into tribal court.

(d) To arrest or detain citizens of Lummi charged with criminal offenses identified in Title 5 during their participation in natural resources treaty right activities, or who are a danger to themselves or the general public safety.

10.19.100 Confiscation Authorized

Whenever any law enforcement officer empowered to enforce this Title or regulations established pursuant to this Title shall cite any person for violation of Title provisions or regulations, the officer shall take into custody

those natural resources which he shall have reasonable cause to believe were taken in violation of the applicable Title provisions or regulations and shall further confiscate any gear, vessels or vehicles, which he shall have reasonable cause to believe was used to illegally take natural resources covered under this Title.

(a) Confiscated gear shall be held in impoundment until such time as all prescribed penalties are paid or the applicable suspension served, except that in cases of forfeiture or failure to pay all damages, fines and charges accrued shall be dealt with according to Lummi Code of Laws Title 14.01.010 through 14.03.030.

(b) Confiscated resources covered under this Title shall, in the case of fish and shellfish, be sold to a licensed fish buyer and any moneys so received shall be deposited in a special court account or in the case of wild animals be distributed through the Commodity Foods Program to those in need. Upon judgment against the violator, said moneys shall be forfeited to the General Fund. Any money so forfeited shall not be released to the person who violated provisions of this Title or regulations. Upon judgment that the violation has not been committed, the moneys, without interest, shall be returned to the member.

Chapter 10.20 Tax

10.20.010 Commercial Tax

There is hereby imposed and shall be paid a tribal fish tax upon the privilege of taking fish under this title in the amount of four percent (4%) of the gross amount, including adjustments, received by a member for the sale of any and all fish and seafood taken under this title. This tax shall be a tax upon the privilege of fishing, and its payment shall be the responsibility of the individual fisher and boat owner jointly and severally. Taxes shall be collected by all fish buyers purchasing fish from Lummi members, and shall be remitted monthly to the LIBC under provisions and upon forms provided by the Accounting Department.

10.20.020 Temporary Surcharge

A temporary additional surcharge of two percent (2%) of the value of the catch shall also be imposed, to be withheld by the buyer and paid to the appropriate Council Account on the same basis as the tribal tax. This surcharge shall be placed in a separate account by the Tribe, and applied by the Tribe to the individual delinquencies, including without limitation tax, court fines, civil penalties having payments, sewer and water fees and other taxes of the particular fisher from who it has been collected. The surcharge shall be collected from all tribal fishers whether or not they are delinquent in their fish taxes. The surcharge account shall be invested in a safe, high yield account. The interest earned by the account shall be used to help pay the Tribe's expenses in administering the surcharge system. None of the surcharge funds themselves shall be used for administrative purposes or any other purpose until they have been released from the account in accordance with the procedures set out in this section. After the surcharge collections have been applied to the tax delinquency accounts of the individual members, the Tribe shall refund any excess to the individual member from whom it has been collected. This refund shall take place on or before December 20. Once all refunds have been made from the surcharge account, the remaining funds shall be paid into the Tribe's general account to be expended in the normal tribal budgeting process.

10.20.030 Exemption of Senior Citizens from Fish Tax

Senior citizens as defined in Section 10.02.300 shall be exempted from fish taxes. Identification cards issued pursuant to Section 10.04.020 and validated pursuant to Section 10.04.030 to Senior Citizens shall be marked to indicate that no tax shall be withheld. There shall be no tax due for fish sold on a Senior Citizen's ID card which are taken in Areas 7B, 7C, 7D, and 77B under the following terms and conditions:

(a) The senior citizen reports to the Accounting Office at the beginning of the year, the name, and ID number of each non-senior fisher fishing on the Senior Citizen's boat in areas other than Areas 77B (Nooksack

River), 7B, 7C, and 7D along with the proportion of the catch which is paid to these non-senior fishers, and .

(b) Prior to November 20 each year, the senior citizen pays to the Accounting Office 4% of the value of the catches shared by the non-senior fishers identified in sub-paragraph (a) above according to an invoice provided by the Accounting Office from fish tickets in the appropriate Areas and the information provided by the senior citizen in sub-paragraph (a) above.

No further Identification Card validations for a Senior Citizen will be made until this sum is received by the Accounting Office.

10.20.040 Accounting of Tax Moneys

The tribe shall account to the tribal fishers and the tribal public generally on the amount of money collected in the tax account and in the surcharge account, the total amount of the surcharge account applied to delinquencies, the total amount of the surcharge account refunded to the fisher, and the tribal expenses on which the taxes have been spent or are budgeted to be spent. This accounting shall take place at the annual General Council meeting in January or at a special fishers meeting in January or at a special meeting called for that purpose. The accounting shall be in a form that can be easily understood by tribal fishers.

10.20.050 Who Is to Accept Tax Payments

The LIBC shall designate a specific individual or office whose responsibility it is to accept payment of present and past taxes. This information shall be publicized to the tribal membership.

Chapter 10.21 Repealer and Severability

10.21.010 Repealer

Any and all prior enactments of the LIBC which are inconsistent with the provisions of this title are hereby rescinded.

10.21.020 Severability

If any section, chapter, or provision of this title shall be declared invalid for any reason,

that provision shall be severed from the remainder of this title and the validity of the remainder of this title shall not be affected by such decision.

Chapter 10.22 Penalties

10.22.010 Penalties

All penalties under Title 10 shall be civil penalties resulting from judgments in the Lummi Tribal Court according to the penalties identified in the various sections of the Title. Penalties identified with the offenses are a range with specific minimum values. The Judge may consider penalties below the minimum range in normal fisheries when the violation does not affect conservation or cause a violation of any agreement with co-managers, but should consider the maximum end of the range for violations in severely restricted fisheries such as shrimp and spring and summer crab, and conservation issues. Judgments may not be made retroactive. The violation of each provision of a section and each day of a continuing violation shall be a separate violation unless otherwise specified. Accordingly, there shall be a separate penalty for each violation.

10.22.020 Forfeiture

Materials confiscated in the course of Natural Resource Patrol enforcement activities pursuant to this title and subject to forfeit if the accused is judged guilty of violation in this title shall be handled under the provisions of this title and not under the more general provisions of Title 14.

Material forfeit under this title shall be sold by auction by the Natural Resource Enforcement Patrol during the first week of June each year and quarterly as deemed necessary.

10.22.030 Disposition of Revenues from Penalties and Forfeit Property

All funds received from penalties for violations of Title 10 and the sale of forfeit properties resulting from such violations shall be deposited to the General Fund. The Council will give priority to the use of these funds to support the Court, Fisheries

Enforcement and production of fisheries resources.

10.22.040 Suspension of Privileges

When a penalty suspending fishing or hunting privileges is prescribed herein, surrender of the appropriate Commercial Fishing Identification Card or Hunting permit and tags to the Court shall be mandatory until such time as the penalty is completely satisfied, though it may be released at the discretion of the Court for participation in other activities than those in which the violation occurred. Notice of such cards and or privileges withdrawn shall be provided to the Accounting Office, the Lummi Natural Resources Department and the Natural Resources Enforcement. Notice should also be provided to the same offices when the cards are returned when the judgment is satisfied. Initially notices should be provided in a written form. This notice shall be provided in a secure electronic form as soon as the technology is available to all offices concerned.

The suspension of fishing and hunting privileges:

(a) Except as otherwise provided in this Title, suspension of privileges shall be in consecutive days beginning with the first legal opening in the management period for the harvest of the species that was associated with the original violation.

(b) Suspensions of fishing privileges for crab for violations in any fishing regime shall be served during the days in that fishing regime which are open for commercial harvest and may continue from one year's regime to the next. During the period of suspension of crabbing privileges the suspended fisher may not transfer ownership of pots or vessels registered to him to any other crab fisher participating in the fisheries under the jurisdiction of the Nation.

(c) Violations for stocks or populations in critical or conservation status be for the time period identified in the judgment and shall include all fishing privileges if the stock or population is a stock usually caught by fishing or all hunting privileges if the stock or

population is one usually caught by hunting.

10.22.050 Failure to Surrender Identification Cards or Permits

Failure to surrender a Commercial Fishing Identification Card or the appropriate hunting permits or tags, and/or fishing or hunting while privileges are suspended shall subject the offender to criminal charges for disobeying a lawful order of the court pursuant to Title 5 of the Lummi Code of Laws, or for Civil Contempt of Court.

10.22.060 Applicable Case History

A three (3) year case history research shall be conducted to be used in consideration of any penalties prescribed for an offender. The date of each violation shall be the date of the judgment for that violation. Such determination shall be irrespective of whether the offender was charged under a previous version of this title. In all cases, the penalty assessed for a violation shall consider previous violations in the same type of activity (i.e. Commercial Fisheries/Shellfisheries, Subsistence Fisheries and Shellfisheries, or Hunting) which have similar recommended penalties for the purpose of determining which level of penalty shall be assessed.

10.22.070 Judicial Discretion to Increase Suspension of Privileges

Notwithstanding any other provision of this Title, the Court, at its discretion, may suspend hunting and/or fishing privileges for a specified period of time and/or increase civil penalties up to a level of \$5000.00 if the violation or combination of violations before it so warrants because of the jeopardy to the Treaty Right or conservation of the natural resource which has the recommendation of the Commission.

10.22.080 Revocation of Citizenship

At the recommendation of the court or by approval of a petition of 25 members requesting disenrollment of a habitual violator of the Provisions of Title 10 which prevents the conservation of natural resources or threatens the ability of the Lummi Nation to manage natural resources under its jurisdiction the Council may revoke the violator's

citizenship in the Lummi Nation.

10.22.090 Witness Fees

Any individual found to have committed a violation under this title shall be liable to pay witness fees to witnesses, including officials from other jurisdictions, and off-duty Lummi Fisheries Officers in the amount of the witnesses' hourly salary.

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