

CHAPTER 1 POLICY

Section 12-1-1. Policy.

- (1) It is the policy of the Flandreau Santee Sioux Executive Committee ("Executive Committee") to exercise the inherent sovereignty of the Flandreau Santee Sioux Tribe over all land and waters within the exterior boundaries of the Flandreau Santee Sioux Tribe Reservation. Henceforth, all hunting and fishing within the exterior boundaries will be regulated by the Executive Committee pursuant to Flandreau Santee Sioux Tribal Constitution, Article VIII, Section (f). Any previous resolution of the Executive Committee to the contrary is hereby rescinded.
- (2) Hunting and fishing on Tribal lands by non-members is controlled by the Flandreau Santee Sioux Tribe. As to "lands belonging to the Tribe or held by the United States in trust for the tribe," the US Supreme Court has agreed that a Tribe may "prohibit nonmembers from hunting or fishing... [or] condition their entry by charging a fee or establish bag...limits."¹ Pursuant to US Supreme Court precedence, the Flandreau Santee Sioux Tribe has jurisdiction over non-members who hunt or fish on Tribal lands, both fee and trust.

Section 12-1-2. Jurisdiction.

- (1) This Code shall govern activities including, but not limited to, hunting, fishing, trapping, gathering, and recreation. The natural resources affected by these activities belong to the Flandreau Santee Sioux Tribe. Therefore, any taking or possession, in contradiction of this Code, is conversion and will be prosecuted through civil and/or criminal action in Flandreau Santee Sioux Tribal Court.
- (2) The Flandreau Santee Sioux Tribe shall have exclusive jurisdiction over its enrolled members on all lands and waters within Tribal Fee, Tribal Trust and Allotted lands of the Flandreau Santee Sioux Reservation.
- (3) The Flandreau Santee Sioux Tribe shall have exclusive jurisdiction over non-member Indians within Tribal Fee, Tribal Trust, and Allotted Lands of the Flandreau Santee Sioux Reservation.
- (4) The Flandreau Santee Sioux Tribe shall have exclusive jurisdiction over non-Indians on Tribal Trust, Tribal Fee, and Allotted Lands of the Flandreau Santee Sioux Reservation.

Section 12-1-3. Regulations.

- (1) The Executive Committee shall promulgate regulations establishing seasons, bag limits, restrictions, and other conditions as deemed necessary to implement the provisions of this Code.
- (2) The Executive Committee may, by resolution, enact emergency regulations that are contrary to the provisions of this Code if conditions so dictate.

¹ *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 331 (1983) quoting *Montana v. United Sates*, 450 U.S. 544, 557 (1981).

Section 12-1-4. Severability and Non-Liability. If any section, provision, or portion of this code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this code shall not be affected thereby. The Flandreau Santee Sioux Tribe further asserts immunity in its part and that of its agencies, employees, and/or agents from any action or damages that may occur as a result of reliance upon and conformance with this code.

Section 12-1-5. Executive Committee Resolution. The Executive Committee adopted resolution number 2020-126, on the 17th day of December, 2020, establishing this Code.

Section 12-1-6. Effective Date. This Code, once adopted through Tribal resolution of the Executive Committee, shall be effective immediately.

CHAPTER 2 – DEFINITIONS

Section 12-2-1. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

- (1) “Accompany” means to be with or be together with a participant as an escort, companion, or other service provider, with an actual physical presence in the area where the activity is being conducted and within sight or sound of the participant during the furnishing of service.
- (2) “Aircraft” means any contrivance used for flight, or to be airborne.
- (3) “Allotted land” means all tribally owned or individually owned lands, within the exterior boundaries of the Flandreau Santee Sioux Reservation, held in trust by the federal government.
- (4) “Area” means within the exterior boundaries of the Flandreau Santee Sioux Reservation, including the Big Sioux River and any other waters.
- (5) “Bag limit” means the maximum limit; in number amount, of a particular species of fish or wildlife, which a person may lawfully take, as specified by the Executive Committee.
- (6) “Big game” shall include, but is not limited to Mule Deer, Whitetail Deer, Elk, Bison, and Mountain Lion.
- (7) “Birds” means a member of the class Aves, including any part, product, egg, offspring, or carcass.
- (8) “Buffalo” means the animal popularly referred to as such but scientifically known as the American Bison, including any part, offspring, or carcass thereof.
- (9) “Carcass” means the dead body of fish or wildlife or any parts thereof.

- (10) "Consideration" means something of value given or done in exchange for something of value given or done by another.
- (11) "Fish" means any member of the class Pisces, including any part, product, egg, offspring or carcass.
- (12) "Executive Committee" is the duly elected Tribal representatives that serve in all matters relating to fish and game management as provided by Flandreau Santee Sioux Tribal Ordinance.
- (13) "Fee land" means those lands within the exterior boundary of the Flandreau Santee Sioux Reservation not held in trust or subject to restrictions or alienation and which is in private ownership.
- (14) "Firearm" means any rifle, shotgun, handgun, or other type of gun.
- (15) "Fur bearers" shall include but not limited to Mink, Muskrat, Beaver, Otter, Weasel, Marten, Fisher, Fox, Coyote, Bobcat, Badger, Raccoon, and Skunk.
- (16) "Gathering" means to take or acquire or attempt to take or acquire possession of any wild plants or parts thereof.
- (17) "Guide" means a Flandreau Santee Sioux Tribal member, licensed by the Executive Committee to contract independently as a licensed tribal outfitter, and to accompany a participant during outdoor recreational activities in the area for which the outfitter is licensed.
- (18) "Harass" means to shoot at, disturb, worry, molest, rally, concentrate, harry, chase, drive, herd or torment.
- (19) "Hunt or Hunting" includes shooting, shooting at, pursuing, taking, catching, or killing any wild animal or animals. "Hunt or Hunting" does not include the recovery of any wild animal which has already been lawfully reduced to possession.
- (20) "License" means a written document issued by the Executive Committee granting authority to engage in specific activities covered in this code.
- (21) "License year" means that period beginning January 1 and ending December 31 of the same year.
- (22) "Member" shall mean any enrolled member of the Flandreau Santee Sioux Tribe.
- (23) "Non-Member" means a person who is not an enrolled member of the Flandreau Santee Sioux Tribe.
- (24) "Open Season" means the time and/or days specified by Tribal permit and/or regulations of the Executive Committee when taking certain species of fish and/or wildlife is legal.

- (25) “Outfitter” means a tribal member, except a person providing services on trust property that the person owns for the primary pursuit of bona fide recreational interests, who for consideration provides facilities, camping equipment, vehicles, water craft, or other conveyance; or personal service for any person to fish, and who accompanies that person on an expedition for this purpose or supervises a licensed tribal guide or professional tribal guide in accompanying that person.
- (26) “Participant” means a person using the services offered by a licensed tribal outfitter.
- (27) “Possession” means having killed, harvested, taken or otherwise obtained or acquired any wild animal, fish, or plant subject to the provisions of this code.
- (28) “Possession Limit” means the amount of fish, wildlife, or plant that may be legally possessed at any one time.
- (29) “Professional Guide” means a guide who has met experience, training, and testing qualifications for designation as a professional tribal guide, as set by the Executive Committee.
- (30) “Plant” means any undomesticated species, and fruit or part thereof, of the plant kingdom, occurring in the natural ecosystem.
- (31) “Recreation” includes, but is not limited to, picnicking, camping, boating, hunting, fishing, hiking, swimming, gathering, and or other related activities.
- (32) “Reservation” means all lands within the exterior boundaries of the Flandreau Santee Sioux Tribal Reservation under jurisdiction of the United States and the Flandreau Santee Sioux Tribe, notwithstanding the issuance of any patent, and including right-of-ways.
- (33) “Size Limit” means the specific size of a species of fish and/or wildlife that may be possessed legally.
- (34) “Take or Taking” means pursuing, shooting, shooting at, hunting, fishing, netting, (including placing or setting any net or other capturing device) capturing, killing, snaring or trapping any fish, wildlife or plant or attempting any of the above.
- (35) “Trapping” includes the taking of, or attempting to take, any wild animal, animal or fish by means of setting or operating any device, mechanism or contraption that is designed, built or made to close upon, hold fast, or otherwise capture a wild animal, animal or fish.
- (36) “Trust Land” means land or any interest therein, the title to which is held in trust by the United States for an individual Indian or a tribe.
- (37) “TRIBAL MEMBER” see “MEMBER”
- (38) “Upland Game Birds” includes but is not limited to Grouse, Prairie Chicken, Pheasants, Partridge and Quail.

(39) “Waterfowl” includes but is not limited to all varieties of Geese, Brant, Swans, Ducks, Rails, coots, and Wilson Snipes.

(40) “Wildlife” means any and all forms of birds and mammals including their nest or eggs.

CHAPTER 3 CONSERVATION

Section 12-3-1. Policy. It shall be and is hereby established as the policy and intent of the Executive Committee to provide an adequate and flexible system for the protection and conservation of all lands (whenever they are designated as wildlife habitat), fish and game resources within the Flandreau Santee Sioux Reservation; to provide for the general management and supervision of all wildlife, fishery, and outdoor recreational activities on the Flandreau Santee Sioux Reservation, including but not limited to, the establishment of rules, regulations and ordinances relating to the harvest of Fish and Game on the Flandreau Santee Sioux Reservation, the establishment of prohibited acts and penalties in regard to wildlife, fishery, and outdoor recreational activities on the Flandreau Santee Sioux Reservation.

Section 12-3-2 Flandreau Santee Sioux Tribal Court. The Flandreau Santee Sioux Tribal Court shall have jurisdiction over all violations of the Hunting and Fishing Code.

CHAPTER 4 NON-MEMBER LICENSING

Section 12-4-1. Non-members; General Hunting and Fishing License; Hunting and Fishing Permits. The General Hunting and Fishing License is a prerequisite to all hunting and fishing permits. The holder of a current General Hunting and Fishing License may engage in recreation activities within the exterior boundaries of the Flandreau Santee Sioux Reservation pursuant to the terms and conditions contained in these regulations. Non-members may be classified as the Executive Committee so chooses, pursuant to Tribal resolution.

- (1) **Fishing Permit.** To lawfully fish in a Reservation water body, non-members must possess a valid General Hunting and Fishing License to which is permanently affixed a fishing permit.
- (2) **Hunting Permit.** To lawfully take or hunt big game, small game, fur-bearers, migratory waterfowl, and upland game birds, a non-member must possess a valid General Hunting and Fishing License to which is permanently affixed a hunting permit appropriate to the category of game hunted or trapped. A permit may be in the form of a game tag.
- (3) **Trapping Permit.** To lawfully trap fur bearers of small game mammals, a non-member must possess a valid General Hunting and Fishing License to which is permanently affixed a trapping permit.
- (4) **Waterfowl Permit.** To lawfully hunt or take migratory waterfowl within the exterior boundaries of the Reservation, a non-member must possess a valid General Hunting and Fishing License to which is permanently affixed a Tribal Waterfowl Permit and Federal Migratory Bird Stamp.

(5) Upland Game Permit. To lawfully hunt or take upland game bird within the exterior boundaries of the Reservation, a person must possess a valid General Hunting and Fishing License to which is permanently affixed a Upland Game Bird Permit.

Section 12-4-2. Obtaining, validating licenses/permits- non-members. Permits and licenses can be obtained only through Executive Committee's office during regular hours (Monday - Friday, 8:00 a.m. to 5:00 p.m.) or through any sellers/agents authorized by the Executive Committee.

- (1) Only one permit per regulated activity may be obtained by an individual.
- (2) A permittee must sign his/her name in ink on each permit to validate the license.
- (3) Permits are non-transferable and must be in the permittee's possession while hunting, fishing, or trapping.
- (4) A permittee must display his/her permit upon demand of any authorized law enforcement personnel.

Section 12-4-3. Non-member License/Permit and age restrictions.

- (1) Non-members sixteen (16) years of age or older must have in their possession a General Hunting and Fishing License with appropriate permits to hunt, fish, or engage in recreation activities.
- (2) Non-members under the age of sixteen (16) years of age may engage in any of the herein described recreation activities without a Hunting and Fishing permit, only if in the accompaniment of an appropriately licensed adult member of the immediate family. Otherwise non-members under the age of sixteen (16) years must possess his/her own Tribal Hunting and Fishing License with the appropriate permit.
- (3) No hunting permit will be issued to a non-member under the age of sixteen (16) years unless he/she presents to the permit seller a certificate of hunter safety issued by an approved hunter safety course.
- (4) Any non-member accompanying a member engaged in any activity regulated herein, shall have a valid license and appropriate permits on his or her person.

Section 12-4-4. Term of license, permit. Any license or permit issued shall be void after the last day of December, following its issuance unless otherwise designated.

Section 12-4-5. Altering, changing, loaning or transferring. Altering, changing, loaning or transferring to another any license or permit issued pursuant to these regulations is prohibited, nor shall any person other than the person to whom it is issued use the same permit/license. In special circumstance and with Executive Committee approval, the transfer of a license or tag may be permitted. In the event a transfer is approved, both the transferor and transferee must have each of their names on the license and/or permit with the accompanying signatures.

Section 12-4-6. Consent to Jurisdiction. The holder of a license or permit agrees to be subject to the jurisdiction of the Flandreau Santee Sioux Tribal Court and shall comply with all applicable Tribal Codes.

Section 12-4-7. Lost license/permits. Lost license and permits may be replaced by the Executive Committee, or its authorized agent, upon proof of purchase, for a specified fee.

Section 12-4-8. Failure to possess License or Permit. Failure of any non-member to possess a valid General Hunting and Fishing License and Permit, with appropriate stamps attached if necessary, as required by this code shall constitute a violation and will be prosecuted.

Section 12-4-10. Exceptions for Non-members who are immediate family of Member. Non-members who are immediate family members of an enrolled Member of the Flandreau Santee Sioux Tribe may accompany the Member when hunting and fishing if they have the written permission to do so from the Executive Committee. The Executive Committee shall give written permission for a non-member to accompany a member while hunting or fishing upon the demonstration of proof of immediate family status.

CHAPTER 5 MEMBER LICENSING

Section 12-5-1. Member. All enrolled members of the Flandreau Santee Sioux Tribe must have in their possession, and must present to lawful authorities upon request, their Flandreau Santee Sioux Tribal Identification, when engaged in hunting, fishing, or other recreational activities described herein. Members must also have in their possession a valid Hunting and Fishing License when hunting along with any appropriate permit. To engage in the hunting of migratory waterfowl, Flandreau Santee Sioux Tribal Members must also possess a Federal Migratory Waterfowl stamp.

CHAPTER 6 MEANS OF TAKING

Section 12-6-1. Hunting from vehicles prohibited. It shall be unlawful for any person, member or non-member to hunt, kill, drive, rally, or harass any bird or wild animal with the use of any of the following means without express written permission of the Executive Committee for predator control or research purposes.

- (1) Aircraft
- (2) All-terrain vehicles - (4 wheelers, motorcycles, etc...)
- (3) Automobiles - (trucks, cars, etc...)
- (4) Snowmobiles

Section 12-6-2. Use of motor or engine propelled boat. The use of a motor or engine propelled boat or water craft to hunt wildlife is lawful only when all motion caused by such motor or engine has ceased.

Section 12-6-3. Radio Communications Prohibited. The possession of any portable hand-held radio communication device while hunting is prohibited. The use, assistance, or reliance upon any radio communication device to drive, harass, hunt or take wildlife is also prohibited.

Section 12-6-4. Religious, Cultural Purposes. Hunts for religious, cultural, or spiritual purposes that are otherwise prohibited by regulation may be engaged in, if approved by the Executive Committee in writing.

Section 12-6-5. Spotighting Prohibited. It shall be unlawful for any person or group of persons to shoot or attempt to shoot any wild animal or bird with the aid of artificial light, or to cast a spot light from a motor vehicle when in possession of a firearm or other implement capable of killing wild or domestic animals.

Section 12-6-6. Selling of Flandreau Santee Sioux Reservation Animals. It shall be unlawful for any person to sell any bird, fish, or game animal, or any part thereof, that has been killed or obtained within the exterior boundaries of the Flandreau Santee Sioux Reservation unless authorized in writing by the Executive Committee.

Section 12-6-7. Waste Prohibited.

(1) It is the policy of the Flandreau Santee Sioux Tribe to promote the fullest use of its Fish and Game resources; therefore the waste of these resources will not be tolerated.

(2) It shall be unlawful for any person to abandon all or any part suitable for food any bird, wild animal, or fish killed by that person within the exterior boundaries of the Flandreau Santee Sioux Reservation.

Section 12-6-8. Protected Species. No person shall hunt, fish, trap, gather, take, pursue, harass, disturb, sell, purchase, or barter any protected species designated by the Executive Committee and by the United States Fish and Game Service.

Section 12-6-9. Baiting Prohibited. The use of any kind of bait but not limited to including salt blocks or licks when hunting is prohibited, unless otherwise approved through Tribal resolution.

CHAPTER 7 BIG GAME

Section 12-7-1. Regulation of Tribally-owned buffalo.

(1) It shall be unlawful for any person to hunt, fish, trap, poison, capture or kill by any means any bird, wild animal, or fish, or to be in possession of any parts thereof anywhere within the confines of the area commonly referred to as the Flandreau Santee Sioux Buffalo Pasture.

(2) It shall be unlawful for any person to kill capture or possess any part of buffalo belonging to the Flandreau Santee Sioux Tribe without the express written permission of the Flandreau Santee Sioux Tribal President and or the Executive Committee.

(3) It shall be unlawful for any person to kill, capture or possess any part of a buffalo belonging to the

Flandreau Santee Sioux Tribe anywhere within the exterior boundaries of the Flandreau Santee Sioux Reservation.

(4) Buffalo are Flandreau Santee Sioux Tribal Property and are not open game if they are out of the confinement of the area commonly referred to as the Flandreau Santee Sioux Buffalo pasture.

Section 12-7-2. Use of dogs for hunting big game is prohibited. The use of dogs to hunt, harass, chase or herd big game is prohibited.

Section 12-7-3. Firearms, Bow and Arrow only for Big Game. Hunting of big game by methods other than with a firearm or bow and arrow is prohibited. Fire arms and bow and arrows must be within the following classifications.

(1) Firearms:

- a. Firearms must discharge a projectile of a diameter greater than 22/100 of an inch (.222 Remington is the smallest cartridge allowable.) All 22 caliber rim fire weapons are prohibited.
- b. Auto-loading firearms capable of holding more than six (6) cartridges, or any firearms capable of holding more than six (6) cartridges or capable of being operated as a fully automatic firearm are prohibited for hunting big game.
- c. Handguns are prohibited for hunting big game.
- d. Muzzle loading rifles must be .44 caliber or larger.
- e. Shotguns must discharge a single ball or rifled slug weighing at least one-half (½) ounce.
- f. Use of any mechanism to silence, muffle, or minimize the report of any firearm while hunting big game is prohibited.

(2) Bow and Arrow

- a. Minimum bow pull must be 60 pounds, and the bow must be able to shoot an arrow 125 yards.
- b. The cutting edge of the arrowhead must be of steel and not less than 7/8 inches long. The shaft of the arrow must be at least 28 inches long.
- c. Explosive, poisonous or barbed points are prohibited.
- d. Cross-bows are prohibited unless otherwise authorized by the Executive Committee due to special circumstances.

Section 12-7-4. Non-licensed Accompaniment Prohibited. No big game licensee or member hunting in the field shall be accompanied by a non-member carrying a firearm or bow and arrow, unless that non-member has a license for the same season and unit as the licensee.

Section 12-7-5. Tagging, Transportation Requirements. No big game animals taken within the exterior boundaries of the Flandreau Santee Sioux Reservation shall be transported unless the tag bearing the licensee's number for the season has been securely attached at the time the animal was killed.

(1) It shall be unlawful for any person to fail or refuse to comply with and follow all tagging instructions on the tag.

(2) To transport parts of a big game animal, a free transportation and shipping permit must be obtained from a Wildlife Conservation Officer for those parts not accompanied by the tag.

Section 12-7-6. Evidence of sex. Evidence of sex must be left attached to the carcass of any harvested big game animal. Suitable evidence of sex shall include scrotum, udder, head, or identifiable portions of reproductive organs. It shall be unlawful for any person to transport or possess any big game animal without the accompaniment of the animal's head and hide unless he/she has a receipt from a licensed taxidermist or a free transportation and shipping permit obtained from a Wildlife Conservation Officer.

CHAPTER 8 MIGRATORY, MIGRATORY WATERFOWL AND UPLAND GAME BIRDS

Section 12-8-1. Permits.

1. Non-members. Nonmembers sixteen (16) years of age or older who are not enrolled members of Tribe must have in their possession the following licenses to hunt on Tribal lands.
 - a. Waterfowl. Licensee must have a Federal migratory waterfowl stamp, a valid Flandreau Santee Sioux General Hunting and Fishing license and a Tribal Migratory Waterfowl stamp.
 - b. Upland Game birds. Licensee must have a Flandreau Santee Sioux General Hunting and Fishing license and a Tribal Upland Game Bird stamp.
2. Members. Enrolled members of the Flandreau Santee Sioux Tribe who are sixteen (16) years of age or older must have in their possession the following licenses to hunt on Tribal lands.
 - a. Hunting and Fishing Licence.
 - b. Waterfowl. Members must have a Federal Migratory Waterfowl stamp and their Tribal identification cards.
 - c. Upland Game. Members need only have their Tribal identification.

Section 12-8-2. Emergency Closure. In the event of an unusual vulnerability or harvest of ducks or geese from unexpected factors (e.g. severe weather, drought, food shortage, etc.), additional harvest restricted or an emergency closure of waterfowl hunting may be implemented within a reasonable time of detection of said problem by announcement through local media, local posting (hunting signs) of habitat, and enforcement by Tribal Personnel.

Section 12-8-3. Means of Taking.

- (1) Maximum Gauge, Number of Shells, Shots Allowed; it shall be unlawful for any person to hunt any permitted species using shot other than steel shot, or by use of a shotgun larger than 10 gauge and/or which is capable of holding more than three shells.
- (2) Use of Bait Prohibited; using any kind of bait for migratory Waterfowl and upland game birds is prohibited.
- (3) Decoys. The use of artificial bird decoys shall not be deemed a taking involving bait.

- (4) **Hunting Equipment Prohibited.** It shall be unlawful for any person to kill or otherwise take migratory game birds with a trap, snare, net, crossbow, rifle, pistol, swivel shotgun, pumpgun, battery gun, machine gun, fish hook, poison drug, explosive, or stupefying substance, or from a sink box (low floating device having a depression affording the hunter a means of concealment beneath the surface of the water), or by the use or aid of live decoys, or by using records or tapes of bird calls or sounds, or electronically amplified imitations of bird calls.
- (5) **Vehicles Prohibited.** It shall be unlawful for any person to kill or otherwise take game birds from or with the aid or use of a car or other motor driven land conveyance, or any aircraft, or by driving, rallying or chasing birds with any motorized conveyance or any sail boat to put them in the range of the hunters.
 - a. The use of a motor or engine propelled boat or water craft to hunt migratory waterfowl (ducks, geese, and coots only) is lawful only when all motion caused by such motor or engine has ceased.
- (6) **Shooting Near Public Highways Prohibited.** It is illegal to shoot any game bird on, from, or across any public highway, or the shoulder, berm, or borrow pit, or right-of-way of any public highway within the exterior boundaries of the Flandreau Santee Sioux Reservation.
- (7) **Shooting Near Utility Lines.** It is illegal to shoot any bird while it is resting on or flying near utility lines or fixtures adjacent to those lines.

Section 12-8-4. Evidence of Species and Sex. It shall be unlawful for any person to transport within the Reservation any upland game bird or migratory waterfowl unless one fully feathered wing and one foot remains attached to each bird at all times while being transported until arrival at the personal residence of the hunter or at a game processing facility.

Section 12-8-5. Shipment. It shall be unlawful for any person to ship migratory game birds unless the package is marked on the outside with (1) the name and address of the person sending the birds, (2) the name and address of the person to whom the birds are being sent, and (3) the number of birds, by species, contained in the package. Such package shall be subject to inspection.

Section 12-8-6. Size of Party Limited. No more than ten (10) persons shall cooperate as a group in hunting any game bird within the exterior boundaries of the Reservation.

Section 12-8-7. Raptors, Bald and Golden Eagles, Other Protected Species. It shall be unlawful for any person to take, attempt to take, kill, hunt, sell, purchase, possess, pursue, shoot at, disturb, or destroy any raptor, Golden or Bald Eagle, Owl, Falcon or other species of protected migratory birds or its nest or eggs on any lands of the Flandreau Santee Sioux Reservation.

Section 12-8-8. Migratory Birds and Waterfowl, Seasons, Limits, Hours. The establishment of migratory bird hunting seasons and bag limits shall be set in compliance with the Migratory Bird Treaty Act. In addition to any regulations provided for in this subsection, all rules and regulations provided for in 50 CFR 20, Migratory Bird Hunting, will be enforced. The Executive

Committee shall be responsible for establishing migratory bird seasons in compliance with the Migratory Bird Treaty Act.

CHAPTER 9 FUR BEARER'S

Section 12-9-1. Non-member's prohibited. It shall be unlawful for any person who is not a Flandreau Santee Sioux Tribal Member to hunt or trap fur bearers on tribal or trust lands or on rivers, streams or lakes within the exterior boundaries of the Flandreau Santee Sioux Reservation, unless given permission by the President of the Flandreau Santee Sioux Tribe for the purposes of predator control.

Section 12-9-2. Trapping Protected Species Prohibited. It shall be unlawful for any person to be in possession of a protected fur-bearer or any other protected wildlife. If protected species are trapped, accidentally or otherwise, the animal shall be released undisturbed, or if killed, the Executive Committee, or authorized law enforcement agent, must be notified before the animal is removed from the trapping device.

Section 12-9-3. General Regulations.

- (1) All traps must be clearly marked with permanently attached metal tags showing the name and address of the owner.
- (2) No person shall flag, mark or otherwise attempt to claim any muskrat house on Flandreau Santee Sioux lands or waters before sunrise on opening day of the trapping season. After the season is open, "flagging", or marking, of muskrat houses is legal if the muskrat house contains a trap.

Section 12-9-4. Disturbing Traps. No person shall disturb in any way another person's trap sets, nor shall they harass, kill or take a trapped animal from another person's trap set or trapping device unless authorized by the Flandreau Santee Sioux Tribe Executive Committee or authorized agent.

Section 12-9-5. Seizure of Traps, Animals. Tribal Wildlife Personnel, in the performance of their duties may seize all traps, trapping devices, and wildlife held in violation of these provisions.

CHAPTER 10 FISHING

Section 12-10-1. Fishing Permit

- (1) Members - Members of the Flandreau Santee Sioux Tribe do not need a permit or license to fish on any tribally regulated waters. All members however must have their Tribal ID in possession when fishing and present the ID upon request from any legal authority.
- (2) Non-members - any person not enrolled in the Flandreau Santee Sioux Tribe must have in their possession whenever engaged in fishing on Flandreau Santee Sioux regulated

waters, a valid Tribal General Hunting and Fishing License with fishing permanently attached.

Section 12-10-2. Regulations Applicable to Non-Members.

- (1) It shall be unlawful for any non-member to take or possess more than the daily limit of fish unless otherwise specified herein. On opening day of any season, only one daily limit shall be in place. A person fishing on a water body may have in his/her immediate physical control only a daily limit allowed for that water body. (The Executive Committee shall set the limit.)
- (2) Baits and Lures. Use of any live fish species as bait is prohibited in all waters within the exterior boundaries of the Reservation. Artificial lures shall include any lure (including flies) that is made in imitation of or as a substitute for natural bait. Artificial lures do not include fish eggs or other chemically treated or processed natural baits or any natural or produced food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.
- (3) Means of Taking:
 - a. Only a single line with a hook or hooks, with or without a pole, may be used for fishing unless otherwise specified. The pole or line must be in the angler's immediate control. Angler's may use up to (6) unattended set-lines with up to (6) hooks in those waters open to set-line fishing.
 - b. It is illegal to catch or take any fish by hand fishing, snagging or by use of brush lines, jug or float line fishing, or any other similar device. Snagging is prohibited by law, and shall not include hooking when the fish by its action takes into its mouth a bait or lure.
 - c. No person shall have in his/her possession any seine, trammel net, hook net, gill net, fish gig, fish spear, fish trap, or other device, contrivance or material for the purpose of taking fish, except as otherwise provided by law.
 - d. It is unlawful to place in or upon any waters within the exterior boundaries of the Flandreau Santee Sioux Reservation any deleterious substance, or fish berries, or to place or explode dynamite, giant powder, carbide, lime, nitroglycerine, or any corrosive or narcotic poison, or any other explosive of any character or kind in any waters with the intent to take or kill, stun or wound fish. It shall also be unlawful for any person to be in possession of any of the above substances within one hundred (100) feet of any water body where fish are found.

Section 12-10-3. General Regulations.

- (1) It shall be unlawful to transport or introduce any fish or viable fish eggs into any waters within the exterior boundaries of the Reservation;
- (2) It shall be unlawful to refuse to show one's fishing permit to an authorized officer upon demand.
- (3) It shall be unlawful to loan or transfer a fishing permit to any person.
- (4) It shall be unlawful to leave or dump any dead animal, fish, garbage or litter in or on any property where public recreation is permitted

12-10-104. Limits, Access, Specific Regulations. Daily and possession limits, specific access regulations and other regulations specific to areas shall be written and adopted by the Executive Committee. These regulations will be available where licenses or permits are sold, or at the Executive Committee's office.

CHAPTER 11 ENFORCEMENT

Section 12-11-1. Enforcement Officers. Any provision of this code may be enforced by Tribal Law Enforcement Officers or other duly authorized Federal Officers as provided for by tribal or Federal law or by cooperative agreement.

Section 12-11-2. Relation to civil procedures under the Flandreau Santee Sioux Tribal Code. Unless otherwise provided within this code, the tribal procedural and substantive provisions of the Flandreau Santee Sioux Tribal Code relating to civil procedure shall apply.

Section 12-11-3. Search. Any officer may, with probable cause, search any conveyance, vehicle, game bag, or any package, box, hunting camp or similar place where the officer has reasonable suspicion to believe any animal was killed or captured within the Reservation or any such animal has been brought on to the Reservation, whether or not at the time the search is made, the person possesses actual knowledge or evidence that a violation of this code, regulations, ordinances or rules adopted hereunder has occurred pertaining to hunting, fishing, trapping, or recreation.

- (1) Consent to search. Any person who purchases a license or permit from the Flandreau Santee Sioux Tribe and who enters the Reservation or who possesses any such dead or captured animal, shall be deemed to have consented to such a search.
- (2) Seizure; probable cause. Any officer may, upon probable cause, seize without warrant, all birds, animals, or parts thereof taken, killed, transported or possessed, contrary to the provisions of this Code or any regulation, rule or ordinance pertaining to hunting, fishing, or trapping, and may seize without warrant, bows, guns, traps, nets, seines, decoys, boats, lights, fishing tackle, or other device unlawfully used for hunting, fishing or trapping. Such officer shall issue a receipt to the person in possession of the items seized stating time, place, date, items seized, where such items will be held, and the name of the officer seizing said items.

Section 12-11-4. Appearance Bond. If the person alleged to be in non-compliance is unable to appear before the Flandreau Santee Sioux Tribal Court for any reason given, such person may post a bond of either money or property or other security. If such person is a resident of the Reservation, then such amount shall be no more than \$30.00 for each alleged violation. If the person alleged to be in non-compliance is a non-tribal member, such bond shall be equal to 50% of the maximum fine leviable, or \$50.00 for each offense, whichever is greater.

12-11-5. Forfeiture Procedure. Any game or fish seized shall be subject to forfeiture at the order of the Tribal Court of the Flandreau Santee Sioux Tribe after no less than fourteen (14) days' notice and opportunity for hearing or trial as herewith set forth. In case it appears upon the sworn complaint of the officer making the seizures that any articles seized were not in the

possession of any person, and that the owner thereof is unknown, the Court shall have the power and jurisdiction to forfeit such articles unknown by publishing such summons in any newspaper of general circulation in Moody County once per week for a period of two successive weeks. The summons shall describe the articles seized and shall give the owner fifteen days from the date of last publication to appear before the Tribal Court and contest the forfeiture. If it is determined that a violation of these ordinances is by a non-tribal member and if it is determined that such act or omission alleged violates either 18 U.S.C. Section 1165, 16 U.S.C. § 3372 (The Lacey Act), or any other applicable Federal Law, such person and the related evidence shall be taken before the nearest United States Magistrate at the earliest opportunity for prosecution under the relevant Federal laws. Such action may be in addition to Tribal remedies and civil penalties available under Tribal law.

12-11-6. Forfeiture. In the event that the Tribal Court orders forfeiture of any article seized, such articles shall be sold at auction and the proceeds shall be paid over to the Flandreau Santee Sioux. If any articles are not declared forfeited by the order of the Tribal Court they shall be returned to the person from whom seized, after the completion of the case and the civil penalties and liquidated damages are assessed by the Court and if not paid within a period of time to be established by the Court, the Court may dispose of said property as described above.

- (1) In the event that final judgment dismisses the allegations against the alleged offender, all items seized shall be returned to the owner or person from whom taken.
- (2) If the offender is unable to pay any penalty levied against him, then the Tribal Court may order the forfeiture of any article lawfully seized, and have the proceeds therefrom applied to the amount owed to the Court. Any surplus shall be paid to the Tribes General Fund and any deficiency shall be an enforceable judgment through attachment, garnishment or other remedy available to the Tribe.

12-11-7. Civil Penalties. A person who is found to be in non-compliance with provisions of this Code may be subject to a civil suit in the Tribal Court. A person found by the Tribal Court to have violated this Code or regulations shall be subject to civil penalties not to exceed five hundred dollars (\$500.00) for each act of non-compliance.

12-11-8. Federal Prosecution. Nothing in this Code shall be deemed to preclude Federal prosecution for violation of applicable Federal laws, nor shall a Federal prosecution preclude the filing of a civil complaint by an authorized officer in Tribal Court.

12-11-9. Additional Remedies. In addition to any remedy or penalty provided by this Code, the Tribal or Federal Court may impose the following remedies:

- (1) Forfeiture of weapons and gear used in violating these ordinances;
- (2) Revocation of all Tribal hunting and fishing permits and licenses or injunction against the issuances by the Tribe of any additional permits or licenses to the offender for up to five years. Grounds for the above mentioned remedy includes, but is not limited to;
 - a. the unlawful taking or possession of wildlife;
 - b. the destruction, injury or molestation of livestock, the damage or destruction of crops, personal property, Tribal property, notices, signboards, or other

improvements while engaged in activities subject to this Ordinance and regulations;

- c. the littering of Reservation lands or waters while engaged in activities subject to this Ordinance; or
- d. the careless use of firearms or other weapons while engaged in activities subject to this Ordinance and regulations.

(3) Payment of the costs for the Tribal or Federal Court proceeding.

12-11-10. Mandatory Revocation of Permits. In any case where a person is found in violation of a wildlife law or rule that is subject to a fine of more than \$100.00, or of violating any other law or rule pertaining to fishing, hunting, or possessing game without a permit or during closed season, the court shall revoke the person's hunting, trapping, or fishing privilege for a minimum of one year following such judgment.