

Chapter XII

CONSERVATION OFFENSES

1201. CONSERVATION DIVISIONS - While proceeding under this Chapter, the Tribal Court shall be termed the Conservation Division of the Tribal Court.
1202. JURISIDICITION OF THE CONSERVATION DIVISION - The Conservation Division of the Tribal Court shall have:
- A. Exclusive original jurisdiction concerning acts or omissions prohibited by the Conservation Code and its implementing regulations which occur in the Exclusive Territory or of the Bay Mills Indian Community, being the lands of the Bay Mills Indian Reservation and the waters of Lake Superior specifically reserved for fishing by members of the Bay Mills Indian Community in Article Third of the Treaty of March 28, 1836 (7 Stat.491).
 - B. Jurisdiction concerning acts or omissions prohibited by the Conservation Code and its implementing regulations and by Section 642 of this Code which occur in the land and water area ceded by the Treaty of March 28, 1836 (7 Stat.491) generally described as:
 - “Beginning at the mouth of Grand river of Lake Michigan on the north bank thereof, and following up the same to the line called for, in the first article of the treaty of Chicago of the 29th of August 1821, thence, in a direct line, to the head of Thunder-Bay river, thence with the line established by the treaty of Saginaw of the 24th of September 1819, to the mouth of said river, thence northeast to the boundary line in Lake Huron between the United States and the British province of Upper Canada, thence northwestwardly, following the said line, as established by the commissioners acting under the treaty of Ghent, through the straits, and river St. Mary’s to a point in Lake Superior north of the mouth of Gichy Seebing, or Chocolate river, thence south to the mouth of said river and up to its channel to the head of the Skonawba river of Green Bay, thence

down the south bank of said river to its mouth, thence in a direct line, through the ship channel into Green Bay, to the outer part thereof, thence south to a point in Lake Michigan west of the north cape, or entrance of Grand river, and thence east to the place of beginning, at the cape aforesaid, comprehending all the lands and islands within these limits, not hereinafter reserved”.

1203. LAW APPLICABLE TO CONSERVATION DIVISION - In proceeding under this Chapter, the Conservation Division of the Tribal Court shall apply the provisions of the Conservation Code of the Bay Mills Indian Community and is implementing regulations promulgated by the Bay Mills Indian Community Conservation Committee.

1204. INSTITUTION OF PROCEEDINGS IN THE CONSERVATION DIVISION

- A. Conservation Complaint - Any person who personally observes an act or omission prohibited by the Conservation Code or by its implementing regulations shall file a signed Conservation Complaint with the Conservation Division of Tribal Court which shall set forth plainly the facts which allegedly give rise to a violation of the Conservation Code and its implementing regulations.
- B. Conservation Citation - Authorized Enforcement Personnel, as defined in 11.01 (g) of the Conservation Code may issue a citation to a person found to be violating said Code or its regulations, which shall direct have said person to appear before the Conservation Division on the same terms and conditions as the Notice issued by the Court pursuant to 1205 of this Chapter. A copy of the citation shall be filed with the Conservation Division.

1205. NOTICE TO APPEAR - Upon the filing of a Conservation Complaint, the Conservation Division shall cause a copy thereof to be served upon the alleged violator, together with a notice to the alleged violator to appear and answer before the Court within five (5) days of his/her receipt of said notice. If the alleged violator shall reside further than twenty (20) miles from the boundaries of the reservation of the Bay Mills Indian Community, the notice shall direct him/her to appear and answer within ten (10) days of his/her receipt of said notice.

1206. APPEARANCE BEFORE CONSERVATION DIVISION

- A. Answer - At the time of the alleged violator's appearance before the Conservation Division, he/she shall answer the Conservation Complaint or Citation by indicating his/her intent to contest or not to contest the charge of alleged violation.**
- B. No contest answer - If the alleged violator answers "no contest" the Conservation Division shall then announce its decision as to the penalty to be imposed pursuant to Section 1209 of this Chapter.**
- C. Contest to charge - If the alleged violator indicates his/her desire to contest the charge, the Conservation Division shall then inform him/her of a date for hearing before the judge of the Conservation Division, set to allow sufficient time for the alleged violator to prepare his/her defense.**
- D. Failure to appear - In the event that the alleged violator shall fail to appear on or before the date indicated on the Notice to Appear, the Conservation Division may cause to be issued a warrant for the arrest of the alleged violator to cause him/her to be brought before the Division judge to answer for his/her failure to appear.**

1207. RIGHTS OF THE ALLEGED VIOLATOR - The alleged violator shall have the right to defend him/herself in person, through a next friend, or by counsel at his/her own expense; to meet the witnesses against him/her face to face; to have compulsory process served to obtain witnesses in his/her behalf; and to a speedy public hearing.

1208. ORDER OF HEARING PROCEDURE

- A. Conservation Committee's evidence - The hearing shall be opened with the evidence in support of the charge which shall be presented by the advocate appearing on behalf of the Conservation Committee. The alleged violator or his/her counsel shall have the right to question any witness called to testify by the Conservation Committee advocate.**
- B. Alleged violator's evidence - The alleged violator, his/her next friend or his/her counsel may then offer evidence in**

support of his/her case. The Conservation Committee advocate shall have the right to question any witness called to testify for the alleged violator.

- C. Decision of the Conservation Division Judge - After all the evidence has been presented, the court shall make its decision as to whether or not the evidence has shown, clearly and convincingly, that a violation of the Conservation Code or of its implementing regulations has occurred.

1209. PENALTIES FOR VIOLATION - Upon the court's decision that a violation of said Conservation Code and its implementing regulations has occurred, the court shall impose the following penalties upon the violator:

- A. Major violations - A violator who shall be found to have hunted or fished during closed seasons or to have hunted or fished in a closed area, as those are prescribed by the Conservation Code and its implementing regulations shall be subject, depending upon the circumstances of each case, to a maximum penalty as follows:

1. Upon the first violation, to a fine of \$250.00 dollars and a suspension of the hunting or fishing license at issue for a term of thirty (30) days;
2. Upon the second violation, to a fine of \$500.00 dollars, suspension of the hunting or fishing license for a term of six (6) months, and forfeiture of the fishing or hunting gear which was in use at the time of the violation to the Conservation Division on behalf of the Bay Mills Indian Community.
3. Upon the third violation, to a fine of \$2.00 dollars per pound of fish or game in possession of the violator at the time of the violation, suspension of the hunting or fishing license for a term of one (1) year, and forfeiture of the fishing or hunting gear which was in use at the time of the violation to the Conservation Division on behalf of the Bay Mills Indian Community.
4. Upon the fourth violation, permanent revocation of the hunting or fishing license.

- B. **MINOR VIOLATIONS** - A violator who shall be found to have fished without the prescribed net markings or who shall have taken fish designated as “sports fish” by the implementing regulations of the Conservation Code shall be subject:
1. Upon the first violation, to a fine of \$25.00;
 2. Upon the second violation, to a fine of \$50.00;
 3. Upon the third violation, to a fine of \$100.00 and a suspension of the commercial fishing license for a term of fifteen (15) days.
- C. **OTHER VIOLATIONS** - A violator who shall be found to have violated other provisions of the Conservation Code may be penalized by the Court with payment of a fine of not more than \$500.00, suspension of the hunting or fishing license for not more than one (1) year, or both.

1210. **APPEAL OF DECISION**

- A. **Procedure** - A violator found to have violated the provisions of the Conservation Code or of its implementing regulations may appeal that determination to the Court of Appeals under the procedures detailed in Chapter II of this Code.
- B. **Status pending appeal** - During the pendency of the violator’s appeal, the determination of the Conservation Division and the penalty imposed as a result thereof shall be in full force and effect. Upon receipt of notice of the violator’s appeal, however, the Conservation Division shall keep secure any property of the violator which was transferred to the court in carrying out its penalty.