

Approved and Recommended for Tribal Adoption by the Voigt Intertribal Task Force (August 6, 1998)

**APPENDIX A**

**MODEL**

**OFF-RESERVATION NATIONAL FOREST GATHERING CODE  
OF THE**

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## CHAPTER 1 - INTRODUCTION

### 1.01 Title.

This ordinance shall be known as the \_\_\_\_\_ Off-Reservation National Forest Gathering Code.

### 1.02 Authority.

This ordinance is enacted pursuant to Article \_\_\_\_\_, Section \_\_\_\_\_ of the Constitution and By-Laws of the \_\_\_\_\_ Tribe.

### 1.03 Purpose.

It is the purpose of this ordinance to:

- (1) Provide an orderly and effective system for tribal control and regulation of treaty-reserved gathering activities applicable to National Forests located in the ceded territory.
- (2) Supplement the Tribal Off-Reservation Conservation Code for the purposes of regulating the exercise of treaty-reserved off-reservation gathering rights applicable to National Forests located in the ceded territory.
- (3) Implement the provisions of the *Memorandum of Understanding Regarding the Recognition and Implementation of Tribal Ceded Territory Rights Guaranteed by the Treaties of 1836, 1837, and 1842*, as may be amended from time to time, which has been ratified by the Tribe and which is incorporated by reference herein as if set forth in its entirety.

### 1.04 Effective Date.

This ordinance shall be effective on the date adopted by the Tribe's governing body.

### 1.05 Interpretation.

The provisions of this ordinance:

- (1) Shall be interpreted and applied as minimum requirements governing the exercise of treaty-reserved gathering rights applicable to National Forests located in the ceded territory;
- (2) Shall be liberally construed in favor of the tribe;

(3) Shall be construed consistent with the purposes and provisions of the *Memorandum of Understanding Regarding the Recognition and Implementation of Tribal Ceded Territory Rights Guaranteed by the Treaties of 1836, 1837, and 1842*, as may be amended from time to time, which has been ratified by the Tribe and which is incorporated by reference herein as if set forth in its entirety; and

(4) Shall not be deemed a limitation or repeal of any other tribal power or authority.

**1.06 Severability and Non-Liability.**

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Tribe further asserts immunity on 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 ordinance.

**1.07 Relationship to Tribal Off-Reservation Conservation Code and other Tribal Ordinances.**

(1) All other ordinances and resolutions that solely govern treaty-reserved ceded territory gathering rights applicable to National Forests located in the ceded territory are hereby repealed.

(2)(a) This ordinance is not intended to repeal or replace any provision of the Tribe's Off-Reservation Conservation Code. It is intended to supplement that Code for the purposes of authorizing or governing the exercise of treaty-reserved wild plant gathering rights applicable to National Forests. It is not intended to apply to the exercise of any other treaty-reserved ceded territory right that is authorized or governed by the Tribe's Off-Reservation Conservation Code.

(b) Unless otherwise specifically indicated in this ordinance, it is the intent of this ordinance that the provisions of the Tribe's Off-Reservation Conservation Code that generally govern the conduct of tribal members exercising treaty rights applicable in the ceded territory shall apply to tribal members exercising treaty-reserved off-reservation gathering rights applicable to National Forests pursuant to this ordinance. Such provisions of the Tribe's Off-Reservation Conservation Code are hereby declared, and shall be construed, to govern tribal members engaged in the exercise of treaty-reserved gathering rights applicable to National Forests.

**1.08 Religious or Ceremonial Use of Natural Resources.**

(1) Nothing in this ordinance shall prohibit the harvest or use of natural resources in a manner otherwise prohibited by this ordinance which is harvested, taken or otherwise obtained in a National Forest within the ceded territory for religious or ceremonial purposes in accordance with the traditions and customs of the Tribe and with the consent of the Tribe's governing body, or its designee.

(2) In reviewing and taking action on any request for religious or ceremonial harvest, the Tribes' governing body, or its designee, shall take into account the biological impact of the harvest, shall ensure that the harvest takes place in a manner that does not cause biological harm, and shall consult with the local National Forest District office if the requested gathering is to take place in a National Forest Research Natural Area (see Section 3.06(1)).

(3) No member shall fail to comply with the terms and conditions of the any permit issued pursuant to this section or to otherwise comply with the requirements imposed by the Tribe's regarding religious or ceremonial harvest of wild plants in National Forests in the ceded territory.

## CHAPTER 2 - DEFINITIONS

### 2.01 Definitions.

(1) Except for specific terms defined in subsection (2), terms in this ordinance shall have the same definition as provided in the Tribe's Off-Reservation Conservation Code.

(2) The following terms, wherever used in this ordinance, shall be construed as follows:

(a) "**Ceded Territory**" means those off-reservation lands ceded by the Tribe or another signatory tribe to the United States of America in the Treaty of 1836, 7 Stat. 491, the Treaty of 1837, 7 Stat. 536, or the Treaty of 1842, 7 Stat. 591.

(b) "**Forest Service**" means the United States Department of Agriculture, Forest Service.

(c) "**Gather**" or "**gathering**" means to take or acquire or attempt to take or acquire possession of any wild plant, or part thereof.

(d) "**Forest Service Salvage Timber Stand**" means any stand of trees where the Forest Service has notified the Tribe of the decision to solicit bids for a Forest Service salvage timber sale contract.

(e) "**National Forest**" means those lands located within the ceded territory owned by the United States of America and part of the Chequamegon-Nicolet National Forest, the Hiawatha National Forest, the Huron-Manistee National Forest, or the Ottawa National Forest.

(f) "**Salvage Timber**" means any tree in a Forest Service salvage timber stand, whether alive, dead, down or standing, having a diameter of four inches or greater.

(g) "**Signatory Tribe**" means an Indian Tribe which is a signatory to the Treaty of 1836, 7 Stat. 491, the Treaty of 1837, 7 Stat. 536, or the Treaty of 1842, 7 Stat. 591, or such tribe's successor in interest.

(h) "**Wild Plant**" means any undomesticated species, or part thereof, of the plant and fungi kingdoms occurring in the natural ecosystem, but for the purposes of this ordinance excludes wild rice.

## **CHAPTER 3 - GENERAL REGULATIONS**

### **3.01 Regulatory Authority.**

(1) The Tribe asserts legal authority to regulate the exercise of the Tribe's treaty-reserved ceded territory gathering rights applicable to wild plants found in National Forests.

(2) Any person authorized to enforce this ordinance may seize forthwith wherever found:

(a) any wild plant taken or reduced to possession in violation of this ordinance; or

(b) any wild plant lawfully taken or reduced to possession under this ordinance, upon violation of any provision of this ordinance relating to the possession, use, giving, sale, barter or transportation of such wild plant.

### **3.02 Permits and Identification -- General.**

(1) No member shall gather any wild plant off-reservation in a National Forest without possessing a valid off-reservation harvesting permit approved by the Tribe, which may be the member's tribal identification card required by Subsection (2), or such other permit as this ordinance may require validated for the particular type of activity to be engaged in for the particular season in question.

(2) No member shall gather any wild plant off-reservation in a National Forest except while carrying a valid picture identification card issued by the tribe, or other form of identification approved by the tribe for such gathering activities.

(3) No member shall refuse to display his or her identification documents upon request of any tribal, Great Lakes Indian Fish and Wildlife Commission, federal, state, or local law enforcement officer.

(4) No member shall fail to comply with the terms, conditions and location restrictions of a permit issued pursuant to this ordinance.

(5) The tribal conservation department is authorized to issue to members permits required by this ordinance and to impose such terms, conditions and location restrictions in those permits as it deems necessary or appropriate. Except as otherwise required by this ordinance, the form of such permits shall be left to the discretion of the tribal conservation department, provided such form shall require the name, address and member's tribal identification number.

(6) The tribal conservation department may issue such harvesting permits to members of a signatory Tribe, provided such other Tribe has enacted an ordinance governing gathering in National Forests that is at least as restrictive as this ordinance.

### **3.03 Commercial Wild Plant Gathering Permits.**

(1) No member shall gather to sell conifer boughs, princess pine or ginseng without possessing a valid commercial wild plant gathering permit.

(2) A commercial wild plant gathering permit shall:

(a) identify the permittee or permittees, including the name, address, tribal affiliation and tribal identification number of all members authorized by the permit; and

(b) identify the amount and general location of the plants to be gathered;

(c) require that all members authorized by the permit must possess a duplicate of the permit while engaged in the gathering activity.

(3) A commercial wild plant gathering permit may:

(a) establish limits on the quantity of the plants which may be gathered;

(b) in addition to other area restrictions provided in this ordinance, limit gathering to a specific area or areas;

(c) define or limit the methods which may be employed to gather the plants; and

(d) establish such other conditions or requirements deemed necessary or appropriate by the tribal conservation department.

### **3.04 Harvest Monitoring.**

(1) Generally. No member to whom any permit has been issued under this ordinance shall fail or refuse to provide harvest information when requested by the tribal conservation department, any person authorized to enforce this ordinance, or the Great Lakes Indian Fish and Wildlife Commission.

(2) Records of Commercial Ginseng Transactions.

(a) No member shall sell any ginseng harvested pursuant to this ordinance to any person unless the member maintains a written record of all transactions on forms prescribed by the tribal conservation department indicating the amount of ginseng involved, the parties to the transaction, the date of the transaction and the National Forest in which harvest occurred.

(b) Records maintained pursuant to this section shall be forwarded annually to the tribal conservation department, or its designee.

(c) No member shall fail to comply with the reporting requirements of this section.

(d) With respect to ginseng gathered in a National Forest, this section supersedes any requirement for maintaining records of commercial transactions contained in the Tribe's Off-Reservation Conservation Code.

### **3.05 Emergency Closures.**

(1) Notwithstanding any other provision of this ordinance, the Director of the Biological Services Division of the Great Lakes Indian Fish and Wildlife Commission or the tribal conservation department may order the closure of the harvest activity of any wild plant in a National Forest generally or with respect to a particular location, whenever the continuation of the harvest is likely to cause biological harm to the species involved.

(2) Every reasonable effort shall be made to consult with and obtain approval of the Tribe prior to ordering an emergency closure, but such closure may be ordered without consultation or approval if circumstances require.

(3) An emergency closure shall become effective immediately upon issuance or at such time or date as the closure order may direct. Such closure shall be communicated to the Tribe by the best and swiftest practical method.

(4) No member shall violate the terms, conditions or restriction of an emergency closure order issued pursuant to this section.

### **3.06 Harvest and Other Location Restrictions.**

(1) Tribal Wilderness, Research Natural Areas, and Special Use Areas Established. The following Great Lakes Indian Fish and Wildlife Commission document, as it may be amended from time to time, is hereby adopted and incorporated in this ordinance as if fully set forth herein, and no member shall fail to comply with the closures and other restrictions established by this document:

*Tribal Wildernesses, Tribal Research Natural Areas, and Tribal Vehicle Permit Areas on National Forests, Version 1: [August 1998].*

(2) Forest Service Administrative Sites. No member shall gather wild plants under authority of this ordinance on a Forest Service administrative site. For the purposes of this ordinance, a "Forest Service administrative site" means a specific site where an office, storage or other building or structure is located and maintained by the Forest Service as part of its operation and management of a National Forest. It is the member's responsibility to be certain about a Forest Service administrative site. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National Forest District office.

(3) National Forest Campgrounds. (a) Gathering in Developed Campgrounds. (i) Except as provided in subs (ii), no member shall gather wild plants under authority of this ordinance on any land located within a developed National Forest Campground. For the purpose of this ordinance, a “developed National Forest Campground” means a location that is clearly marked and identified as a campground by the Forest Service and on which improvements clearly have been made to develop and maintain the site as a campground. It is the member's responsibility to be certain about a developed National Forest campground. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National Forest District office.

(ii) Except where firewood is provided at no cost by the campground or where firewood will be used while camping in the campground, no member shall gather firewood in a developed National Forest campground.

(b) Camping Fees and Length of Stay Restrictions. The Tribe and the Forest Service have entered into a Memorandum of Understanding that will exempt members from certain camping fees and length of stay restrictions that the Forest Service requires of the general public in the National Forests. Once the Tribe and the Forest Service have entered into a campground fee and length of stay Exemption Agreement and accompanying Implementation Plan, and the Tribe has ratified the Agreement and Plan, no member shall fail to comply with the requirements and restrictions contained in the Agreement and Plan. Information about the Exemption Agreement and Implementation Plan can be obtained by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or local National Forest District office.

(4) Non-National Forest Lands. No member shall gather wild plants under authority of this ordinance on any land located within the boundaries of a National Forest that is not owned by the United States of America and part of a National Forest. This provision does not apply to or otherwise restrict any wild plant gathering on non-National Forest lands that is authorized by another tribal ordinance.

### **3.07 Harvest of Trees Subject to a Timber Sale Contract or Located Within a Forest Service Timber Sale Contract Area.**

(1) No member shall gather any tree under authority of this ordinance without a permit issued pursuant to subs. (4) that is subject to the harvest rights of another in a valid Forest Service timber sale contract. Sometimes these trees are marked with orange, green or yellow paint. However, it is the member's responsibility to be certain about trees that are subject to a valid Forest Service timber sale contract. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National Forest District office.

(2) Within an open Forest Service Timber Sale Contract Area as defined in subs. (3), no member shall undertake any of the following activities under authority of this ordinance without a permit issued pursuant to subs. (4):

- (a) Cut down any live tree;
- (b) Remove the bark of any live tree;
- (c) Trim or remove the branches from the top half of any live tree; or

(d) Trim or remove the branches or other parts, except cones, of any tree that has been cut down by another person.

(3) For the purposes of this ordinance, an “open Forest Service Timber Sale Contract Area” means a defined location of a National Forest which has been delineated by the Forest Service for the purposes of a timber sale offering and for which a valid Forest Service timber sale contract has been executed. Typically, a Forest Service Timber Sale Contract Area is marked with blue paint on trees around the perimeter of the Area. It is the member's responsibility to be certain about an open Timber Sale Contract Area. Any uncertainty should be resolved by contacting the tribal conservation department, Great Lakes Indian Fish and Wildlife Commission or the local National Forest District office.

(4) (a) The tribal conservation department, after first consulting with the Forest Service, is authorized to issue permits under this section on such terms and conditions as it deems necessary and appropriate.

(b) No member shall fail to comply with the terms and conditions of a permit issued pursuant to this section.

### **3.08 Harvest of Certain “Marked” Trees.**

(1) No member shall cut down any tree that has been designated with any of the following markings, and no member shall remove, alter or deface any of the following markings:

(a) Blue Paint. Blue paint designates the boundaries of a payment unit within a Forest Service Timber Contract Sale Area;

(b) Red Paint. Red paint indicates boundaries between National Forest land and other ownerships, or may designate a witness tree at a legal corner;

(c) White Paint Stripes or Other White Bands. White stripes or bands indicate a tree being used to collect cones or seeds for nursery stock; or

(d) Metal or Wood Forest Service Signs. These signs designate property or National

Forest boundaries, indicate legal corners or other survey data, indicate nursery stock, or provide other similar information.

**3.09 Permissible Conduct/Assistance by Non-Members.**

(1) Conduct which is not expressly prohibited, restricted or otherwise regulated by this ordinance shall be deemed permissible.

(2) Except as provided in subs.(3) or as otherwise provided herein, nothing in this ordinance shall be construed to prohibit a member from gathering in a National Forest with any other person who is not a member of the Band, provided that such other person possesses a license or permit, or is otherwise not prohibited from engaging in the activity involved and complies with applicable laws.

(3) No member shall allow any person who is not a member to assist, and no such person shall assist, in the activities authorized by this ordinance except that persons of the member's immediate family, including but not limited to grandparents, parents, spouses, and siblings, may assist the member provided the member is present when the assistance is rendered.

## **CHAPTER 4 - ENFORCEMENT**

### **4.01 Enforcement by Deputized Conservation Wardens and Issuance of Citations.**

(1) Any provision of this ordinance may be enforced by tribal conservation wardens or by conservation wardens of the Great Lakes Indian Fish and Wildlife Commission. Said Commission wardens are hereby deputized by the Tribe as tribal conservation wardens for the purposes of enforcing this ordinance.

(2) Such Tribal and Commission wardens may issue a citation on a form approved by the Tribe or tribal court to any person whose conduct is regulated by the provisions of this ordinance upon reasonable belief that such person has violated or breached a provision of this ordinance.

### **4.02 Search and Seizure; When Authorized.**

Tribal and Great Lakes Indian Fish and Wildlife Commission conservation wardens, and properly identified Forest Service law enforcement officers are empowered to:

(1) Conduct a search of an object, place or person whose conduct is regulated by the provisions of this ordinance, and may seize things when the search is made:

(a) with consent;

(b) pursuant to a valid search warrant;

(c) with the authority and within the scope of a right of lawful inspection as provided in this section;

(d) incident to the issuance of a lawfully issued citation under this ordinance; or

(e) as otherwise authorized by law or by the provisions of this ordinance;

(2) Conduct routine inspections, in a manner and at such times and locations as are reasonable and appropriate in the ordinary course of routine enforcement activities, of vessels, boats, wagons, trailers, automobiles, snowmobiles, off-highway vehicles, containers, packages, and other receptacles contained therein, utilized by a person in a harvest activity authorized by this ordinance and of record of commercial transactions required under this ordinance with have not yet been forwarded to the tribal conservation department;

(3) Execute and serve warrants and other process issued by the tribal court in accordance with applicable law;

(4) Stop any automobile or other vehicle as part of a lawful inspection authorized by this section or if the person reasonably suspects there is a violation or breach of this ordinance;

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(5) With or without a warrant, open, enter and examine vessels, boats, wagons, trailers, automobile, vehicles, snowmobiles, off-highway vehicles, and packages and other receptacles contained therein, in which the person has probable cause to believe that contraband wild plants, may be contained or pursuant to a lawful inspection authorized by this section; and

(6) Seize and hold subject to the order of the tribal court any alleged contraband or property which such person reasonably believes may be needed as evidence in connection with the institution of proceedings in tribal court or any property otherwise authorized to be seized by the provisions of this ordinance.

#### **4.03 Seized Items.**

Any wild plant which is seized in connection with cases referred to Tribal Court for prosecution shall be turned over to the Tribe. No seized wild plant shall be returned by the tribal court or tribal officials to a convicted violator, his or her immediate family or other member of the gathering party.

#### **4.04 Penalties.**

Any person who, for himself or herself, or by his or her agent, servant or employee, or as an agent, servant or employee of another, violates this ordinance, shall be liable as follows:

- (1) For any violation, a civil remedial forfeiture of not more than \$5000.00;
- (2) For any violation, a revocation or suspension of off-reservation National Forest gathering privileges for a period of time within the discretion of the court;
- (3) For any violation, the court may order a natural resources assessment not to exceed 75% of the amount of the civil remedial forfeiture; and
- (4) For any violation, appropriate court costs within the discretion of the court.

#### **4.05 Civil Damages.**

(1) In addition to any other penalty allowed by this ordinance, the tribal court may award to the Tribe or, in addition to an action to impose penalties, the Tribe may bring a civil action for recovery of, damages against any person unlawfully gathering or having unlawfully in possession any wild plant taken from a National Forest. The sum assessed for damages for each wild plant shall not be less than the amount stated in this section:

- (a) Any endangered or threatened species protected under this ordinance, \$875.00.
- (b) Any wild plant for which a fair market value can be established, the fair market value.

(c) Any other wild plant, \$17.50.

(2) Where the Forest Service or another person or entity has sustained damages as a result of unlawful harvest, the court may, with the consent of the Tribe, award all or part of any civil damages obtained pursuant to this section to the Forest Service or to such person or entity.

#### **4.06 Enhancement of Forfeiture and Penalties.**

Upon conviction of any member for a violation of this ordinance when such person has been convicted of a previous violation of this ordinance within a period of one year, the court may enhance any civil remedial forfeiture or other penalty as the court deems appropriate.

#### **4.07 Collection of Money Penalties.**

Enforcement of the money penalties imposed pursuant to this ordinance may be had through the collection of penalties from funds of the violator held by the Tribe, through the imposition of community service work requirements in lieu of money payment, through debt collection mechanisms of the courts of other jurisdictions, or through any other method authorized by law.

#### **4.08 Parties to a Violation.**

(1) Whoever is concerned in the commission of a violation of this ordinance shall be deemed a principal and may be charged with the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

(a) directly commits the violation;

(b) aids or abets the commission of it; or

(c) is a party to a conspiracy with another to commit it, or advises, hires, or counsels or otherwise procures another to commit it.

#### **4.09 Harvesting After Revocation or Suspension.**

No person whose off-reservation National Forest wild plant gathering privileges have been revoked or suspended pursuant to Section 4.04(2), shall gather any wild plant in a National Forest, the harvest of which is regulated by this ordinance, during such revocation or suspension.

#### **4.10 Schedule of Money Penalties; No Contest.**

The tribal court, in consultation with the Tribe's Governing Body, may adopt a schedule of forfeitures to be imposed by the court upon the receipt of an admission that a violation of this ordinance has occurred, or a plea of not contest, which may be done either in person or in writing. This schedule shall not bind the court as to forfeitures assessed by the court after adjudicating a violation where the defendant has entered a plea of not guilty.

#### **4.11 Hearings in Tribal Court.**

The Tribal Court shall adjudicate all matters arising under this ordinance pursuant to the provisions of the Tribal Court Code.

#### **4.12 Members of Other Tribes, Tribal Court Adjudications.**

The tribal court is authorized to adjudicate alleged violations by any member of a signatory tribe of any off-reservation National Forest gathering code of that Tribe provided:

- (1) The relevant provisions of such ordinance are in essential conformance with the parallel provisions of this ordinance; and
- (2) The other Tribe has authorized the adjudication.

## CHAPTER 5 -- SPECIFIC HARVEST REGULATIONS

### 5.01 Conifer Boughs.

No member shall:

- (1) Cut down a tree for the purpose of gathering conifer boughs;
- (2) Remove boughs from the upper half of a tree; or
- (3) Gather for subsequent sale northern white cedar or hemlock boughs.

### 5.02 Princess Pine.

No member shall gather for subsequent sale any *Lycopodium* species except *Lycopodium obscurum*, *Lycopodium dendroidium*, or *Lycopodium hickeyi*.

### 5.03 Firewood.

(1) No member shall cut any live tree or gather any salvage timber for firewood unless the tree is included within a National Forest "firewood sale," other area designated for firewood either generally or on a case-by-case basis, or as permitted pursuant to a valid sugarbush site permit issued pursuant to Section 5.05.

(2) No member shall cut any standing dead tree more than 100 feet from the cleared edge of any road where it is legal for highway vehicles to travel.

(3) No member shall cut any standing dead tree within 200 feet of any pond, lake, stream or river.

(4) No member shall use a farm tractor, rubber tired skidder, or similar vehicle for gathering firewood without written permission from the Tribe.

### 5.04 Ginseng.

No member shall gather ginseng from November 1 through August 31.

### 5.05 Maple Sap/Sugarbushes.

(1) No member shall gather maple sap without a sugarbush site permit valid for a designated tribal sugarbush or for such other location approved by the tribal conservation department in consultation with the Forest Service.

(2) "Designated tribal sugarbush" means a specific site identified and established by the tribal conservation department, in consultation with the Forest Service, for which a site management plan has been developed and for which a sugarbush site permit has been issued.

(3) The tribal conservation department may issue a sugarbush site permit to one or more members and may impose such terms and conditions as it deems necessary or appropriate.

(4) No member shall fail to comply with the terms and conditions of a sugarbush site permit.

#### **5.06 Harvest of Live Trees and Salvage Timber.**

(1) Harvest for Sale as "Lumber" or Similar Wood Products. (a) No member shall under authority of this ordinance cut down any live tree or gather any salvage timber for the purposes of selling all or part of it, or any product derived from its wood, as bolts, pulpwood or lumber.

(b) No member shall sell under authority of this ordinance all or part of any tree, or any product derived from its wood, as bolts, pulpwood or lumber.

(2) Harvest for Construction Purposes. (a) No member or tribal entity shall cut down any live tree or gather any salvage timber under authority of this ordinance for the purposes of constructing a structure or dwelling, as those terms are defined in subs. (b), without a valid structure construction harvest permit issued pursuant to subs. (c).

(b) (i) For the purposes of this section, the terms "structure or dwelling" mean a building or other larger structure to be used for residential, commercial, or storage purposes, and include, for example, a home, cabin, garage, storage shed, store, office building, and manufacturing facility. The terms do not include smaller structures, such as hunting blinds, fish houses or sugarbush shacks, that are used in the exercise of treaty-reserved hunting, fishing or gathering rights. It is the member's responsibility to verify that the intended construction use is not prohibited by this ordinance. Any uncertainty should be resolved by contacting the tribal conservation department or the Great Lakes Indian Fish and Wildlife Commission.

(ii) For the purposes of this section, "tribal entity" means an agency, business, partnership, corporation, committee, body or other entity, and the officers, employees and agents thereof, that is chartered, directed, controlled, or majority owned by the Tribe.

(c) (i) The tribal conservation department is authorized to issue construction harvest permits on such terms and conditions as it deems appropriate.

(ii) Prior to issuing a construction harvest permit, the tribal conservation department must consult with and obtain the concurrence of the Forest Service.