

## TITLE 4 NATURAL RESOURCES AND ENVIRONMENT

### CHAPTER 4-25 RECREATION

#### GENERAL PROVISIONS

**4-25-1**            **Title**

This Chapter shall be known as the Colville Recreation Chapter of this Code.

**4-25-2**            **Policy**

It is the policy of the Confederated Tribes of the Colville Reservation (Confederated Tribes, Colville Tribes, Tribes) to restore, preserve, and protect the resources on the Colville Indian Reservation, the North Half, and off the Colville Reservation on lands over which the Colville Tribes exercises authority and jurisdiction.

**4-25-3**            **Legislative Intent**

(a) Pursuant to the power vested in it by Article V of the Constitution of the Confederated Tribes of the Colville Reservation, the Colville Business Council of the Tribes recognizes the spiritual, cultural, and economic value of the wildlife and recreation resources of the Colville Reservation and on the North Half and within the aboriginal territory of the Colville Confederated Tribes; that these resources are an irreplaceable tribal asset; that unregulated use of recreation resources of the Tribes would threaten the political integrity, economic security, and health and welfare of the Tribes; it is the duty of the Tribes to regulate and properly manage resources located within the aboriginal territory of the Tribes and hereby enacts this Recreation Chapter to ensure proper and support management of these vital resources.

(b) The Colville Tribal people alone have the absolute, inherent, retained sovereign right to use and enjoy the Colville Reservation and the resources located thereon. In regulating recreation resources of the Reservation, the Colville Business Council intends that tribal members shall be afforded the greatest possible freedom to use and enjoy these resources consistent with the preservation and improvement of these resources for future generations.

(c) Of secondary importance is the policy of permitting recreation resources of the Reservation by non-members for the economic benefit of the Tribes as a whole, and for the promotion of intercultural education and good will.

**4-25-4**            **Scope and Coverage of Chapter**

This Chapter and all regulations adopted under this Chapter shall apply to all persons who engage in recreational activities on the Colville Indian Reservation or any lands subject to the authority and jurisdiction of the Colville Tribes.

**4-25-5**            **Jurisdiction and Management**

(a) Except as otherwise provided by this Chapter, the Colville Tribes, through its Colville Business Council, Tribal Court, and such other tribal entities as are designated by tribal law, shall have absolute, original, and exclusive jurisdiction to regulate and adjudicate all matters pertaining to recreation resources on the Reservation, such other lands as have been or may be added to the Reservation, allotments, and all other lands over which the Colville Tribes exercises authority and jurisdiction.

(b) To the greatest extent permissible by law, the provisions of this Chapter shall apply to any person on lands in the North Half and on other lands were the Colville Confederated Tribes may be authorized to enforce its interests or rights and to any member asserting rights held by the Tribes without regard to location. By agreement approved by the Colville Business Council such authority may be delegated, or carried out through cross deputization agreements.

(c) The Colville Tribal Court or such other tribunal as designated by the Council shall have exclusive jurisdiction over all violations of this Chapter and any regulation adopted pursuant thereto except as this Chapter reserves that authority to the Colville Business Council or allows for potential federal prosecution.

(d) In addition to the other jurisdictional provisions of this section, the Colville Confederated Tribes:

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- (1) Hereby assumes exclusive control and management of all National Park Service designated campsites in the Freeboard Area within the Indian zone, namely: Sanpoil Campground, Three-Mile, Wilmont Creek, and Barnaby Island. Such sites shall be designated for camping and picnicking by non-members subject to the provisions of this Chapter;
- (2) Will designate other shoreline and free board areas where it will permit without charge casual daytime stopping and picnicking without fires for the convenience and enjoyment of the general public in its use of Lake Roosevelt for boating, swimming, water skiing, hunting, fishing, and other recreational purposes. Such designated areas will be suitably posted and publicized. The general public is forbidden to so utilize any beach, shoreline, or freeboard area that is not so designated;
- (3) Except as authorized by regulation adopted pursuant to this Chapter, hereby designates all shorelines of Lake Roosevelt Reservoir area bordering the Colville Reservation to the 1310 line for the exclusive use by residents of the Colville Reservation, tribal members and their children and spouses, and other Indians for swimming, picnicking, and other recreational uses. No other person will be permitted to enter said area or to boat within two hundred (200) feet of its shoreline or within a larger water surface area that may be marked off with suitable buoys;
- (4) Hereby designates the Omak Lake beach areas located in Sections 29 and 30, T.32N., R.28E, WMW, be restricted to use by enrolled members of the Colville Confederated Tribes and their immediate families and their invited guests, and that, Colville Tribal Forestry, construct and place wooden signs in prominent locations on Omak Lake advising the public of these new restrictions.
- (5) It hereby assumes exclusive jurisdiction and control over Indian boats and boating within the Indian zone adopting by reference, however, the safety regulations of the National Coast Guard with regard to the operation of boats. The Coast Guard, National Park Service and/or State of Washington are acknowledged, until further notice, to have jurisdiction concurrent with that of the Tribes to enforce among non-Indians all of their relevant rules and regulations regarding boat registration, safety regulations and related matters;
- (6) Unless, otherwise provided by federal law, it hereby assumes exclusive jurisdiction to govern and regulate the issuance of permits for concessions, docks, pumping stations and other activities and structures within the Indian Zone.

**4-25-6 Definitions**

In this Chapter, unless the context requires another meaning, the following terms shall mean:

- (a) "Colville Business Council" or "Council" means the elected governing body of the Confederated Tribes of the Colville Reservation as prescribed in Article II of the Colville Constitution.
- (b) "Camping" means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home or trailer, or mooring of a vessel, for the apparent purpose of overnight occupancy.
- (c) "Closed area" means those portions of the Colville Reservation not open for recreational activities.
- (d) "Closed waters" means any lake, river, stream, body of water, or any part thereof on or off the Reservation described or designated by this Chapter or regulation wherein it shall be unlawful to recreate.
- (e) "Colville Indian people" means enrolled members of the Confederated Tribes of the Colville Reservation.
- (f) "Conveyance" means terrestrial or aquatic vehicles including, vessels, aircraft, motorboat, sailboat, personal watercraft, trailer, or any other means or method of transportation
- (g) "Department" means the Parks and Recreation Department.

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(h) "Designated campground" means a site where tent or trailer camping is permitted. Designated campgrounds are of two types:

- (1) Primitive (outhouses, picnic tables, and grills); and
- (2) Developed (flush toilets, water, picnic tables, and grill).

(i) "Guest" means any non-member, not qualifying as family of a tribal member, who engages in trail, off-road use, or camping activities in the company of one or more adult tribal member.

(j) "Head of household" means any member of the Tribes who is solely or substantially responsible for providing his or her own care and maintenance or that of his family.

(k) "Highway legal" means any motorized vehicle legal to operate on all public, all primary and secondary highways, state highways and interstate highways, including the entire right-of-way.

(l) "Highway road" means all primary and secondary state highways and interstate highways, including the entire right-of-way.

(m) "Immediate family" or "family of tribal member" means related persons and immediate kin of both a tribal member and a non-member spouse, whether related by blood or marriage, including parents, children (including foster children and children of previous marriages), brother, sister, aunts, uncles, grandparents, grandchildren, nieces, nephews, cousins, as well as members of the household of a tribal member living under the same roof.

(n) "Indian" means any person of Indian descent who is a member of a federally recognized Indian Tribe according to the laws of that tribe, and any other person recognized by federal or tribal law as an Indian for any purpose, and denotes both the singular and the plural.

(o) "Member" or "tribal member" means any person who is enrolled in the Confederated Tribes of the Colville Reservation (Colville Confederated Tribes, Colville Tribes, or Tribes).

(p) "Minor" means for purpose of this Chapter only, any person under the age of sixteen (16) years.

(q) "Natural resources enforcement officer(s)" means the person or persons charged with the responsibility of enforcing this Chapter regulations and tribal resolutions promulgated hereunder and shall include all Colville Tribal:

- (1) Police officers;
- (2) Parks & Recreation Program law enforcement personnel;
- (3) Regulatory enforcement officer; and
- (4) Any other qualified individual authorized by the Colville Business Council to act as a natural resources enforcement officer under this Chapter.

(r) "Non-highway road" means any public road within the boundaries of the Colville Reservation, except highways.

(s) "Non-motorboats" means boats that are not powered by a motor, power plant, gas or electric engine, i.e., boats powered by oars, canoe, paddleboat, float tube, kayak and rubber rafts.

(t) "Non-motorized vehicle" commonly known as a mountain bike.

(u) "North Half" means all lands of the Colville Reservation as set apart in the Executive Order of July 2, 1872, that were ceded to the United States pursuant to the Agreement of May 9, 1891, in which the Tribes

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holds reserved rights to hunt, fish, and gather, and which consists generally of the lands between the current northern boundary of the Reservation and the Canadian border and between the Okanogan and Columbia rivers.

(v) "Off-reservation" means all lands, territories, waters and streams located outside the Colville Reservation as defined in section 1-1-361 of this Code, including but not limited to the North Half.

(w) "Off-road vehicle" or "ORV" means any motorized vehicle, when used for recreational travel on trails, non-highway roads and cross-country travel over natural terrain; such vehicles include but are not limited to: motorcycles, dune buggies, snowmobiles, and all-terrain vehicles.

(x) "On reservation" means within the exterior boundaries of the Colville Reservation as defined in section 1-1-361 of this Code.

(y) "Operator" means any person who operates or is in physical control of an ORV.

(z) "ORV closed area" means that portion of the Colville Reservation where the use of an ORV is prohibited.

(aa) "Owner" means any person, other than a mere lien holder, having a property interest in an ORV and entitled to use or possess said ORV.

(bb) "Undeveloped and un-maintained areas" means areas where the Tribes has no campground facilities and which the Tribes does not maintain. Because there is no garbage pick-up in these areas, everything that is packed in must be packed out.

(cc) "Person" means any individual, firm, partnership, association or corporation.

(dd) "Pollution" or "to pollute" means the introducing by any means of any substance in liquid, solid or gaseous form into or upon Reservation resources in sufficient quantities as may be directly or indirectly injurious to the health, safety or welfare of the Reservation population or which may be directly or indirectly injurious to livestock, wildlife, and their habitat.

(ee) "Public highway" means every road, regardless of surface, maintained by federal, state, county or other public funds.

(ff) "Public housing site" means areas of public housing on trust or tribal land. Examples include: Colville Indian Housing Authority or HUD housing sites, trailer courts, and the Nespelem Agency Campus public housing.

(gg) "Random camping" means camping outside designated camping areas.

(hh) "Recreational vehicle" means a vehicle or unit that is self-propelled or mounted on or drawn by another vehicle designed for temporary living which may be moved on public highways. Recreational vehicles include travel trailers, camping trailers, truck campers, and motor homes.

(ii) "Regulation" means any rule, regulation, resolutions or ordinance promulgated pursuant to this Chapter.

(jj) "Resolution" means a written action or decision by the Colville Business Council of the Colville Confederated Tribes including the enactment of a tribal law or laws.

(kk) "Reservation" means the Colville Reservation as defined in section 1-1-361 of this Code.

(ll) "Shoreline" means all Type 1, Type 2, Type 3, and Type 4 waters of the Reservation as defined in CTC § 4-15-5 et seq., including reservoirs, and their associated shorelines, floodplains and wetlands, together with the lands underlying them. Shoreline includes all beaches of the Reservation.

(mm) "Shoreline jurisdiction" means those lands subject to the regulation contained in the Shoreline Management Program. Such lands include those extending landward 400 feet on a horizontal plane from

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the ordinary high water mark of Type 1 waters; 300 feet on the horizontal plane from the ordinary high water mark of Type 2 waters; 200 feet on a horizontal plane from the ordinary high water mark of Type 3 waters; and 100 feet on the horizontal plane from the ordinary high water mark of Type 4 waters; including any floodways and contiguous floodplain areas and all wetlands associated with the streams and lakes which are subject to the provisions of this policy.

(nn) "Shorelines of the Reservation" are the total of all "shorelines" within the Reservation.

(oo) "Spouse" for purposes of this Chapter means a wife or husband of an enrolled tribal member.

(pp) "Trail" means any path used for travel, which is not necessarily suitable for travel by automobile.

(qq) "Trespass" means to:

(1) Enter upon the real property of another that is posted to prohibit trespassing, is fenced or contains obvious outward signs of habitability without permission of the owner or the owner's agent;

(2) Enter tribal lands that are not specifically posted as open to the public;

(3) Refuse to depart from or re-enter the Colville Reservation in violation of an order of exclusion issued by the Tribal Court as provided by this Code; or

(4) Take any other action identified as trespassing under this Chapter.

(rr) "Tribal land" means land owned in fee by the Confederated Tribes of the Colville Reservation or a tribal member and/or land held in trust by the United States for the Tribes or individual Tribal members.

(ss) "Watercraft" means any boat or other floating device of rigid or inflatable construction which is designed to carry people or cargo on the water, and which is propelled by machinery, oars, paddles, or wind action on a sail; except makeshift contrivances constructed of inner tubes or other floatable material and not propelled by machinery, personal floatation devices worn or held in hand, and other objects used as floating or swimming aids.

## **REGISTRATION**

### **4-25-100      Registration/Identification of Boats**

(a) All vessels used on Reservation pursuant to this Chapter shall be clearly identified as required by regulations, and this section.

(b) Each owner of a boat shall identify his it as follows:

(1) All vessels shall have a boat identification plaque displayed in a manner visible from a distance of ten (10) yards from the vessel;

(2) All identification shall be easily visible without having to remove the boat from the water. It shall be unlawful to operate without having all identification required by this section properly attached.

## **ON-RESERVATION, NON-MEMBER PASSES**

### **4-25-200      Reservation Use Pass Required**

The Department will develop a reservation use pass and associated regulations for non-members who are recreating on the Reservation. The Department will also set all fees. The regulations and fees must be approved by Resolution of the Colville Business Council.

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**4-25-201**      **Duty to Open**

Nothing in this subchapter shall create a duty to allow any on Reservation non-member recreation.

**4-25-202**      **Regulations**

(a) Except as otherwise provided by this section, the Colville Business Council may adopt, amend, or repeal rules and regulations covering any activity or procedure under this Chapter.

(b) The notice of the proposed rulemaking shall specify the time and place at which the Council will discuss and the public may appear and comment in person on the proposed rules and regulations. Neither the tribal department proposing the rule nor the Colville Business Council shall be required to accept or consider written comments or hold a public hearing on the proposed rulemaking unless otherwise determined by the Council.

**TRIBAL TAX (RESERVED)**

**PROHIBITED ACTS**

**4-25-300**      **Prohibited Acts**

Unless modified by rule or regulation the following prohibited acts are established.

**4-25-301**      **Violations of Chapter or Regulations**

No person shall take any action which is a violation of any provision of this Chapter or any regulation adopted pursuant to this Chapter.

**4-25-302**      **Resisting**

No person shall resist or obstruct any conservation officer or other duly authorized tribal law enforcement officer or other peace officer in the discharge of his duty while enforcing the provisions of this Chapter or other tribal regulations pertaining to hunting and fishing.

**4-25-303**      **Defacing**

No person shall destroy, tear down, shoot at, deface or erase any printed matter or signs placed or posted by or under the instructions of the Colville Business Council to assist in the enforcement of this Chapter and regulations promulgated pursuant to this Chapter.

**4-25-304**      **Aiding and Abetting**

No person shall counsel, encourage, solicit, request, aid, procure or abet another to commit any act prohibited under this Chapter or under any regulation of the Parks and Recreation Program of the Colville Confederated Tribes.

**4-25-305**      **Entering Game Reserve**

No person shall enter upon a game refuge or other area closed recreation except as may be authorized by the Department or necessary for enforcement of this Chapter authorized personnel.

**4-25-306**      **Pollution**

No person shall while recreating under the permission of this Chapter pollute any water or lands. Provided, enforcement under this Chapter shall be in addition to enforcement provision for pollution found in tribal law.

**4-25-307**      **Littering**

No person, while engaged in any activity regulated by this Chapter, shall deposit upon any public or private property any debris, paper, litter, glass bottles, glass, nails, tacks, hooks, cans, barbed wire, boards, trash, garbage, lighted material or waste substances on any place without authorization from the Tribes or the owner of the property affected.

**GENERAL ENFORCEMENT PROVISIONS**

**4-25-400**      **Notice**

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(a) Signs shall be posted conspicuously along the boundaries of the Reservation and at all roadway points of entry putting the public on notice that:

- (1) Permission to enter is conditional on consent to tribal jurisdiction;
- (2) Violators of tribal regulations are trespassing and are subject to tribal and federal sanctions;
- (3) Visitors must inquire locally for permits and information.

(b) The lack of the signs required by this section or the lack of knowledge of such signs shall not be a defense in any action brought in the name of the Tribes to enforce this Chapter.

**4-25-401 Civil Actions**

Except as otherwise provided in this Chapter, all violations of this Chapter or regulations promulgated under this Chapter shall be considered civil in nature, and shall be adjudicated as provided by the Infractions; Field Bonds; Other Civil Violations and Forfeitures Chapter under this Code.

**4-25-402 Disposition of Fees, Penalties and Damages: Report**

All fees resulting from the sale of permits by the Fish and Wildlife Department and its agents, and all fines, costs, monies, penalties or damages collected for violations of this Chapter or regulations promulgated thereunder shall be deposited in a special Parks and Recreation account and shall be available for expenditure pursuant to a Colville Business Council approved budget in connection with the maintenance and protection of recreation resources of the Colville Indian Reservation.

**4-25-403 Enforcement/Right of Entry in Course of Duty**

(a) All natural resources enforcement officers shall have the authority and the duty to enforce the provisions of this Chapter and regulations adopted thereunder.

(b) Any authorized assistants, employees, agents, appointees or representatives of the Tribes may, in the course of their inspection, enforcement and/or management duties as provided for in this Chapter, enter upon any lands, real estate, waters or premises except the dwelling house or appurtenant buildings on the Reservation whether public or private and remain thereon while performing such duties. In no event other than an emergency such as firefighting shall motor vehicles be used to cross a field customarily cultivated, without prior consent of the owner. None of the entries herein provided for shall constitute trespass.

**4-25-404 Warrants, Subpoenas and Service of Process**

Any natural resources enforcement officer may, in addition to exercising any other powers granted by this Chapter:

- (a) Execute warrants issued for the arrest of violators of this Chapter;
- (b) Execute search warrants issued by the Tribal Court or any other court in matters arising under this Chapter;
- (c) Serve subpoenas or other legal documents issued in matters arising under this Chapter.

**4-25-405 Searches and Seizures**

(a) Any natural resources enforcement officer may, without a search warrant, search any aircraft, watercraft, vehicle, box, game bag, locker, backpack, bedroll, sleeping bag, or other container or package if the officer has probable cause to believe that wildlife or parts thereof taken in violation of this Chapter or the instrumentalities of such illegal taking are contained therein.

(b) This section shall not be construed to permit the warrantless search of any non-mobile dwelling house (including mobile/modular homes) or any outbuilding within the enclosed land surrounding it.

(c) Any natural resources enforcement officer may inspect all wildlife or parts thereof taken, possessed, or transported on the Colville Reservation, and may seize as evidence all wildlife which such officer has

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probable cause to believe has been taken, possessed, or transported in violation of this Chapter and any object which the officer has probable cause to believe has been used as the instrumentality of such illegal taking, possession, or transportation.

(d) Upon issuance of an infraction notice or criminal citation or the arrest of the defendant, the conservation officer shall retain all wildlife in the possession of the suspected violator.

(e) Wildlife seized under this section may be disposed of in such a manner as is provided by the provisions for forfeiture under this Code. Provided that any such wildlife may be disposed of, sold, preserved or used for food purposes as necessary to prevent loss or spoilage.

(f) If the Tribal Court determines that the suspected violator has not violated this Chapter or regulations adopted hereunder, the seized wildlife shall be returned if possible. If the wildlife in question has been disposed of prior to such determination the department shall pay to the person from whom the wildlife was seized an amount equal to the market value of the wildlife at the time of seizure. Such payment shall be from the special fish and wildlife fund established pursuant to this Chapter. When lawful and in lieu of the payment of market value under this section, the person from whom the wildlife was seized may elect to obtain a special permit authorizing him to take additional wildlife or otherwise replace the items seized.

(g) The director shall prepare a report of all wildlife and devices seized by the natural resources enforcement officer showing a description of the items, the person from whom they were seized, if known, and the disposition of the items. This report shall be presented to the committee annually and kept by the department. All money derived from the sale of any seized property shall be deposited in the department fund.

**4-25-406      Representation of the Tribes in Actions Arising Under this Chapter**

The Tribal Prosecutor, the natural resources enforcement officer or, in the case of conflict of scheduling or interest, such other counsel for the Tribes as the Colville Business Council may designate, shall represent the Tribes in all actions arising under this Chapter to which the Tribes is a party, whether such actions are civil or criminal.

**4-25-407      Trespassing**

Violation of this Chapter by nonmembers shall be considered immediate revocation of permission to enter the Reservation and may render the violator a trespasser. It shall be unlawful for any nonmember to trespass on the Colville Reservation.

**4-25-408      Federal Prosecution**

(a) Nothing in this Chapter shall be deemed to preclude the federal prosecution under 18 U.S.C. 1165 of nonmembers who trespass on the Reservation. Any natural resources enforcement officer or the prosecutor may follow the procedure provided by applicable law to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided for by this Chapter.

(b) This Chapter has been enacted to protect the resources of the Colville Tribes, and the taking or using of tribal property or services contrary to the terms of this Chapter constitutes theft of tribal assets. Nothing in this Chapter shall be deemed to preclude federal prosecution of violators under 18 U.S.C. 1163 for theft of tribal assets or any other federal law designed to protect tribal wildlife or other natural resources. Any natural resources enforcement officer may follow the procedure provided by tribal law to initiate federal prosecution in addition to or in lieu of any other enforcement procedure provided for by this Chapter.

**4-25-409      Expulsion**

Nothing in this Chapter shall be deemed to preclude the use of the remedy of expulsion of nonmembers for violation of this Chapter and any natural resources enforcement officer or other appropriate official may follow the procedure provided by tribal law to initiate an action for expulsion in addition to or in lieu of any other enforcement procedure provided for by this Chapter.



## **BOATING AND WATER USE ACTIVITIES**

### **4-25-500      Application**

The rules set into herein apply to Lake Roosevelt, all boundary waters of the Colville Reservation and all water bodies on the Reservation.

### **4-25-501      Inspection**

(a) Natural resources enforcement officer may at any time stop and/or board a vessel to examine documents, licenses or permits relating to the operation of the vessel, and to inspect such vessel to determine compliance with regulations pertaining to safety equipment and operation.

(b) A natural resources enforcement officer who observes a vessel being operated without sufficient lifesaving or firefighting devices, or in an overloaded or unsafe condition, as defined in United States Coast Guard or this subchapter, may direct the operator to take immediate and reasonable steps necessary for the safety of those aboard the vessel, including but not limited to directing the operator to:

- (1) Correct the hazardous condition immediately;
- (2) Proceed to a mooring, dock, or anchorage; or
- (3) Suspend further use of the boat until the hazardous condition is corrected.

### **4-25-502      Prohibited Operations**

The following activities are prohibited under this Chapter:

(a) Operating a vessel, or knowingly allowing another person to operate a vessel, in a reckless or negligent manner, or in a manner so as to endanger or likely to endanger any person or property. It shall be deemed a per se violation of this section to operate a vessel while under the influence of alcohol or controlled substance or in a designated swimming area.

(b) Operating a vessel when under the influence of alcohol or controlled substance.

(c) Failing to observe restrictions established by a regulatory marker.

(d) Operating a vessel more than five (5) mph or creating a wake in areas so designated by signs and/or buoys.

(e) Operating a vessel within one hundred (100) feet of a diver's marker, downed water skier or swimmer.

(f) Harassing, while operating a motorized vessel, individuals lawfully engaged in activities on tribal waters or shorelines.

(g) Operating a vessel in an area marked and designated as a swimming area.

(h) Allowing a person to ride on the gunwales, transom, or on the decking over the bow of a vessel propelled by machinery when operated in excess of five (5) mph; Provided, however, that this provision shall not apply under the following circumstances:

(1) When that portion of the vessel was designed and constructed for the carrying of passengers safely at all speeds;

(2) When the vessel is being maneuvered for anchoring, mooring or casting off moorings.

(i) Attaching a vessel to or interfering with a marker, navigation buoy or other navigational aid.

(j) Using trailers to launch or recover vessels, except at designated launching sites.

(k) Operating a vessel at a speed greater than that which will permit the operator to bring the vessel to a

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stop to avoid injury to persons or property. The operator of a vessel is responsible for its wake at all times.

(l) Overloading a boat beyond its safe carrying capacity rating, taking into consideration weather and other normal operating conditions.

(m) Capacity plates are required on all boats less than twenty (20) feet in length constructed on or after November 1, 1972. Capacity plates state the boat maximum weight capacity, maximum persons capacity and for outboard powered boats, the maximum horsepower. Exceptions to this requirement are sailboats, canoes, kayaks, and inflatable boats.

**4-25-506 Personal Floatation Device**

(a) Personal Floatation Device (PFD) requirements for recreational vessels under sixteen (16) feet: All boats less than sixteen (16) feet in length and all canoes and kayaks, must have one TYPE I, II, III, or IV PFD of a suitable size for each person on board; including water skiers being towed by the vessel.

(b) PFD requirements for recreational vessels sixteen (16) feet and over: All boats sixteen (16) feet or over in length must have one TYPE I, II, III (wearable) PFD of a suitable size for each person on board; including water skiers being towed by boat. Also one TYPE IV (throwable) PFD must be aboard each boat. Canoe and kayak boats are not required to have a TYPE IV PFD All PFD's must be U.S. Coast Guard approved, in serviceable condition, and of an appropriate size for the person who intends to wear it.

(c) Children twelve (12) years and under are required to wear Coast Guard approved life jackets:

- (1) On boats less than 19 feet in length;
- (2) Whenever a vessel is underway;
- (3) When on an open deck or in an open cockpit;
- (4) On any waters of the Reservation and boundary waters.

**4-25-507 Fire Extinguisher**

(a) All motorboats less than twenty-five (25) feet in length shall be equipped with one (1) U.S. Coast Guard approved Type B-1 fire extinguisher.

(b) All motorboats twenty-six (26) feet in length to less than forty (40) feet in length shall be equipped with at least two (2) U.S. Coast Guard approved Type B-1 fire extinguishers or one (1) U.S. Coast Guard approved Type B-11 extinguisher.

(c) All motorboats forty (40) feet to not more than sixty five (65) feet in length shall be equipped with at least three (3) U.S. Coast Guard approved Type B-1 fire extinguishers or one (1) U.S. Coast Guard approved Type B-11 fire extinguisher.

**4-5-508 Additional Safety Equipment**

Every motorboat:

(a) Sixteen (16) feet or over in length shall be equipped with an efficient whistle or other sound-producing appliance;

(b) Shall have two or more ventilators with cowls or the equivalent capable of removing gases from bilges in any compartment containing gasoline engines or gasoline tanks. Motorboats so constructed as to have the

greater portion of the bilges under the engine and fuel tanks open and exposed to the natural atmosphere at all times are not required to be fitted with such ventilators;

(c) Shall have the carburetor of any inboard gasoline engine equipped with a device for arresting backfire. Such device shall be of the type approved by the Commandant, U.S. Coast Guard;

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(d) Shall have the exhaust to every internal combustion engine used on any motorboat effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner.

**4-25-509      Navigation Lights**

(a) All non-motorboats anchored or underway from sunset to sunrise or at such times as vision is less than five hundred (500) feet shall be equipped with a hand lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent a collision.

(b) All motorboats less than twenty six (26) feet in length underway from sunset to sunrise or at such a time as vision is less than five hundred (500) feet shall be equipped with the following lights:

(1) One (1) white light aft to show all around the horizon (32 points in the compass or 360 degrees);

(2) One (1) combination light on the fore part of the vessel lower than the white light aft, showing a green light to the starboard and a red light to the port side of the vessel, each showing ten (10) points of the compass or 112.5 degrees.

(c) All motorboats twenty six (26) feet to not more than sixty five (65) feet in length underway from sunset to sunrise or at such times that vision is less than five hundred (500) feet shall be equipped with the following lights:

(1) One (1) white light as far forward as possible to show an unbroken light twenty (20) points of the compass or two hundred and twenty five (225) degrees with ten (10) points or 112.5 degrees on each side of the vessel;

(2) One (1) white light aft to show all around the horizon (32 points of the compass or 360 degrees) and higher than the white forward;

(3) One (1) red light on the port side and one (1) green light on the starboard side showing ten (10) points on the compass or three hundred and sixty (360) degrees with a screen installed to prevent lights from being seen across the bow.

(d) Every white light required in this section shall be carried on the centerline of the vessel, except that the all around white light aft on a motorboat of less than twenty-six (26) feet in length may be carried off the centerline.

All motorboats may display in lieu of this section navigation lights required by the International Rules of the Road.

**4-25-510      Water Skiing**

(a) The towing of person by vessels is prohibited, except in designated waters.

(b) Where towing is authorized, the following are prohibited:

(1) Towing between the hours of sunset and sunrise;

(2) Towing a person who is not wearing a Coast Guard approved personal floatation device;

(3) Towing or being towed in channels or within five hundred (500) feet of areas designated as harbors, swimming beaches, or mooring areas, or within one hundred (100) feet of a person fishing or swimming or diver's marker. Skiers must be picked up by a vessel before coming within one hundred (100) feet from the shoreline in the process of landing.

(4) On interior lakes towing or being towed in channels or within one hundred (100) feet of areas designated as harbors, swimming beaches, or mooring areas, or within one hundred (100) feet of a person fishing or swimming or diver's marker. Skiers must be picked up by a vessel before coming within one hundred (100) feet of shore; provided, when safe, the skier and the towing vessel may

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come within less than one hundred (100) feet from the shoreline in the process of landing.

(c) A vessel which has in tow a person or person shall have at least an operator and an observer. The observer shall continuously observe the person or persons being towed and shall display a flag immediately after the towed person or persons fall into the water, and during the time preparatory to skiing while the person or persons are still in the water. Such flags shall be a bright red or brilliant orange color, measuring at least twelve (12) inches square mounted on a pole not less than twenty four (24) inches long and displayed as to be visible from every direction.

**4-25-511 Age Requirements to Operate Motorboat**

(a) It shall be unlawful for a minor under the age of sixteen (16) years to operate a motorboat, powered by an engine of ten (10) horsepower or more, unless accompanied by a person who is legally capable of operating such motorboat.

(b) It shall be unlawful for a minor ten (10) years of age or under to operate a motorboat in excess of four (4) horsepower.

(c) It shall be unlawful for the owner of a motorboat or the person having charge of a motorboat to permit a minor to operate a motorboat in violation of subsections (a) and (b) above.

**4-25-512 Duty of Operator Involved in Collision, Accidents, or Other Casualty—Immunity from Liability of Person Rendering Assistance**

(a) Accidents: All incidents involving an accident, collision, fire injury, or other casualty shall be reported to the Parks & Recreation Program within twenty four (24) hours. Filing this report satisfies applicable National Park Service accident report requirements. Filing shall be made to any natural resources enforcement officer or National Park Ranger, or to the Parks & Recreation Program, or the National Parks Service Office.

(b) The operator of a vessel involved in a collision, accident, or other casualty, to the extent the operator can do so without serious danger to the operator's own vessel or person aboard, shall render all practical and necessary assistance to persons affected by the collision, accident, or casualty to save them from danger caused by the incident. Assistance rendered under this section shall not be evidence of the liability of such operator for the collision, accident, or casualty. The operator shall also give his name, address, and identification of the operator's vessel to the Parks & Recreation Program, natural resources enforcement officer, and the National Park Service if the accident, collision or other casualty occurred on Lake Roosevelt and any person injured and to the owner of any property damaged. These duties are in addition to any duties otherwise imposed by law.

(c) Any person who complies with subsection (a) of this section or who gratuitously and in good faith renders assistance at the scene of a vessel collision, accident, or other casualty, without objection of the person assisted, shall not be held liable for any civil damages as a result of the rendering of assistance or for any act of omission providing or arranging salvage, towage, medical treatment, or other assistance, where the assisting person acts as any reasonably prudent person would have acted under the same or similar circumstances.

**4-25-513 Motorboats Crossing**

(a) Motorboats Crossing: When two (2) motorboats are crossing so as to involve risk of collision, the vessel which has the other on their starboard side shall keep out of the way of the other.

(b) Sailing Vessel Right of Way: When a motorboat and a sailboat are proceeding in such a direction as to involve risk of collision, the motorboat shall keep out of the way of the sailboat, except when the sailing vessel is overtaking the motorboat from behind.

(c) Privileged Vessel Duty: Whenever, under this subchapter, one of the two vessels is to keep out of the way, the other is to maintain her course and speed.

**4-25-514 Overtaking Vessels**

(a) When two motorboats are running in the same direction and the vessel astern desires to pass, it must

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give the sound signal: two (2) short horn blasts to pass on the port side and one (1) short horn blast to pass on the starboard side.

(b) If the course ahead is not safe for passing, the stand-on (privilege) vessel, shall indicate so by sounding five or more short rapid horn blasts. This danger signal must be used on both inland and international waters.

(c) At any time when there is danger of collision and conditions prevent immediate compliance by either vessel with the other vessel's signals, the danger signal shall be sounded, and both vessels shall be slowed or stopped, until signals for passing safely are sounded and understood.

**4-25-515 Right of way—Fishing Vessels**

Vessels underway shall keep out of the way of sailboats or boats fishing with nets, lines, trawl, beach seines or fish weirs or platforms. This section shall not give to any vessel or boat engaged in fishing the right of totally obstructing a channel used by vessels other than fishing vessels such that other vessels are denied passage, unless permitted by tribal regulations implementing the Tribes fishing rights.

**4-25-516 General Prudential Rule**

In obeying and construing this subchapter, due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the normal navigation rules in order to avoid immediate danger.

**4-25-517 Shooting from a Boat**

No person will be allowed to hunt or shoot from a boat unless said person has a tribal hunting permit or is enrolled in the Colville Tribes, and then only when the boat is not under power and all forward momentum is stopped.

**4-25-518 Garbage**

(a) It shall be unlawful for any person, to throw or discard into the waters any waste, debris, refuse, oil, garbage or other fluids or solid materials which in any manner tend to pollute said water or shore.

(b) The prohibition in subsection (a) above shall apply to all persons on the shore, all persons on a watercraft, and all persons on a structure extending onto a waterway.

**4-25-519 Trespassing and Vandalism**

The following are prohibited:

(a) Trespassing entering or remaining in or upon personal property or real property of the Colville Confederated Tribes located in that portion of the Indian Zone located within the Lake Roosevelt not open to the public, except with the express invitation or consent of the Colville Confederated Tribes;

(b) Destroying, injuring, defacing, or damaging personal property or real property of the Colville Confederated Tribes.

**4-25-520 Swimming**

(a) The following are prohibited:

(1) Swimming or bathing in locations designated as closed;

(2) Swimming from vessels which are underway, except in circumstances where a capable operator is on board and all propulsion machinery is off and/or sails are furled.

(b) The natural resources enforcement officer may prohibit the use of floatation devices, glass containers, kites, or incompatible sporting activities within locations designated as swimming beaches.

(c) A parent or adult guardian must be present when preschool-aged children are on the beach or in the

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water of designated swimming beaches and must supervise the children's activity. Voice and visual contact must be maintained with the child.

**4-25-521**

**Fires**

(a) It shall be a violation of this Chapter to engage in the following activities:

- (1) The willful or careless setting or starting of a forest fire, brush, grass fire or other destructive fire;
- (2) Failure to maintain a campfire;
- (3) Setting a campfire in an area where fires are prohibited by any person while on the Reservation.

(b) Enforcement action under this Chapter for the violation of this section shall not relieve a person from liability under any other provision of tribal or federal law relating to fire control, nor from liability for any damage caused.

(c) Fires are only permitted as provided by regulation adopted by the Colville Business Council.

(d) Leaving a fire unattended is prohibited.

(e) Throwing or discarding lighted or smoldering material in a manner that threatens, causes damage to, or results in the burning of property or park resources, or creates a public safety hazard.

(f) It is unlawful to violate any fire restrictions placed on an area by the Parks & Recreation Program or the BIA Fire Control Department.

**4-25-522**

**Property**

(a) The following are prohibited:

- (1) Abandoning property;
- (2) Leaving property unattended for longer than twenty four (24) hours, except in locations where longer time periods have been designated or in accordance with conditions established by the Parks & Recreation Program;
- (3) Failing to turn in found property to the Parks & Recreation Program manager or natural resources enforcement officer within seventy-two (72) hours.

(b) Impoundment of property: Property determined to be left unattended in excess of an allowed period of time, as determined by regulation, may be impounded by the Parks & Recreation Program manager or natural resources enforcement officer.

(c) Unattended property that interferes with visitor safety, orderly management of the park area, or presents a threat to park resources may be impounded by the Parks & Recreation Program manager at any time.

(d) Impounded property shall be inventoried to determine ownership and safeguard personal property.

(e) The registered owner is responsible and liable for charges to the person who has removed, stored, or otherwise disposed of property impounded pursuant to this section; or the Parks & Recreation Program manager may assess the registered owner reasonable fees for the impoundment and storage of property impounded pursuant to this section.

(f) Disposition of Property:

- (1) Property impounded pursuant to this section shall be deemed abandoned property unless claimed by the owner or an authorized representative thereof within sixty (60) days. The sixty (60)

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day period shall begin to run from the earliest of either:

(A) the time that the Parks & Recreation Program notifies the rightful owner of the property; or

(B) if the owner cannot be identified, the time the property was placed in the custody of the Parks & Recreation Program manager.

(2) The finder may claim the abandoned property.

(3) Abandoned property still in the custody of the Parks & Recreation Program after ninety (90) days shall be disposed of in accordance with this subchapter at the cost of the owner.

**4-25-523      Prohibition of Intoxicants/Firearms—Designated Locations**

(a) No person shall possess intoxicating liquors while present on those water bodies and associated shorelines where such possession is prohibited by resolution of the Colville Business Council and the Tribal Law and Order Code.

(b) No person shall possess a firearm while present at those locations where such possession is prohibited by resolution of the Colville Business Council and the Tribal Law and Order Code.

(c) Any person in violation of this section shall be subject to a civil penalty of not more than \$500 for each such violation.

(d) Any individual using the shoreline of any waterbody where possession of intoxicating liquors or firearms is prohibited by resolution of the Colville Business Council, by virtue of their presence on said shoreline consents to a search of their personal property by any natural resources enforcement officer or law enforcement officer to determine compliance with the provisions of this section. Any contraband discovered in the course of said search may be immediately seized by the officer for use as evidence in an enforcement action under this Chapter and subsequent disposal.

(e) The term "Shoreline " as used in this section shall include public and tribal lands adjacent to any body of water regulated by this Chapter (whether above or below the ordinary high water mark), including but not limited to beaches, parking lots, and picnic areas.

**TRAIL AND OFF-ROAD USE**

**4-25-600      Purpose**

The primary purpose of this subchapter is to protect and regulate the use of lands, waterways, archeological sites and wildlife habitat within the boundaries of the Colville Reservation. It is the policy of the Colville Tribes to manage, govern, preserve and protect persons, property, and natural and cultural resources within the boundaries of the Reservation.

**4-25-601      Penalties**

Persons of all ages are subject to this subchapter. For children under sixteen (16) years of age who are found to have violated one or more provisions of this subchapter, the adult directly responsible for supervision of the child will be subject to the prescribed penalty as if the adult had committed the offense.

**4-25-602      Off-Road Vehicles**

Off-road vehicles, unless otherwise restricted, may be operated within the boundaries of the Colville Reservation on dirt (not gravel) roads (including county dirt roads), logging roads and unimproved tribal roads. Snowmobiles, unless otherwise restricted, may be operated on snow-covered, unplowed, nonhighway roads.

**4-25-603      Member/Non-member ORV Use**

(a) Any tribal member, while engaged in motorized ORV use on the Reservation, shall produce his tribal membership card if requested for identification purposes by a natural resources enforcement officer.

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(b) All lands on the Reservation shall be closed to unauthorized motorized ORV use by non-tribal members with the exception of parents, spouses and children of enrolled members of the Colville Confederated Tribes when the tribal member is present. Provided that the Parks & Recreation Program manager may allow or restrict non-member ORV use by regulation adopted pursuant to this Chapter.

(c) Any adult member eighteen (18) years old or older shall be allowed up to two non-member guests when snowmobiling.

**4-25-604      Rules and Regulations**

No person shall operate an ORV in violation of any rule or regulation conditioning the use of an ORV.

**4-25-605      Area Closures**

The Parks & Recreation Program manager shall have the authority to determine areas at risk of harm by any type of ORV use or areas requiring closure for any other reason, and in consultation with the Fish & Wildlife Program manager, shall make recommendations to the Natural Resources Committee regarding areas to be designated as closed to certain or all ORV use. Areas shall be designated closed to certain or all ORV use only upon approval by the Colville Business Council.

**4-25-606      Prohibited Acts**

(a) It is unlawful for any non-member to operate an ORV on the Colville Reservation unless he or she is an employee of the Colville Confederated Tribes operating said vehicle in the course of his or her employment or unless exempted by any other section of this Chapter. Said employees shall obtain a permit from the Colville Tribal Parks & Recreation Program.

(b) It is unlawful for any person to operate an ORV as follows:

- (1) While the operator is eighteen (18) years of age or younger and not wearing a safety helmet which meets the U.S. Department of Transportation standards for street motorcycle helmets;
- (2) Throw or discard any waste, debris, refuse, oil, garbage or other fluids or solid materials which in any manner tends to pollute the natural environment while operating said ORV;
- (3) In such a manner as to endanger the life or property of another;
- (4) Without a lighted headlight and taillight between the hours of dusk and dawn or when visibility is less than five hundred (500) feet;
- (5) Without an adequate breaking device;
- (6) Without a spark arrester device that prevents hot carbon from escaping the ORV;
- (7) Without an adequate operational muffling device that limits exhaust noise to 105 decibels at 20 inches from the exhaust exits when the vehicle is stationary and the engine RPM's are at one-half the manufacturer's allowable maximum (red line) RPM's (RPM's = revolutions per minute);
- (8) While the operator is under the influence of intoxicating liquor and/or drugs;
- (9) Upon the shoulder or inside bank or slope of any highway;
- (10) Drive on the draw-down on any shoreline;
- (11) In any area or in such a manner as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage or destroy trees, growing crops or other vegetation;
- (12) On any non-highway road or trail that is restricted for only pedestrian/animal travel;
- (13) (Excepting a motorcycle) on any public paved or gravel road maintained for automobile, motorcycle and truck use, e.g., Bureau of Indian Affairs Class 2-4 paved or gravel roads, highway,

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etc.;

(14) In any area in which ORV use is prohibited;

(15) Chase, harass or run-down any wildlife except as provided by this Chapter or the Colville Business Council;

(16) At a rate of speed greater than is reasonable and prudent under existing conditions;

(17) In violation of any terms or conditions of an ORV use permit;

(18) After failing to sign a notice of infraction citation issued by a natural resources enforcement officer;

(19) Hunt or shoot/throw any object from the ORV while the ORV is moving;

(20) Carry a passenger, when said ORV is not designated to carry a passenger, or carry more passengers than the number for which the ORV is designed;

(21) When such person is not an enrolled member of the Colville Tribes, carry or transport a firearm with a bullet in the magazine or chamber in/on an ORV within the boundaries of the Reservation;

(22) On a snow plowed road or highway, when the ORV is a snowmobile;

(23) (Excepting a motorcycle or mountain bike) within a public housing site;

(24) In any manner prohibited by this subchapter or the rules and regulations promulgated hereunder;

(25) While the operator is over thirteen (13) and under sixteen (16) years of age unless an adult is present; or

(26) Who is under the age of thirteen (13).

**4-25-607      Accidents**

The operator of an ORV involved in an accident, or owner of the ORV who has knowledge of the accident, shall, within twenty-four (24) hours of the date of the accident, file or cause to have filed with the Tribal Police an Accident Report, whenever such accident results in the injury to/death of any person or results in property damage estimated at a value of \$500 or more.

**NONMEMBER CAMPING**

**4-25-700      Findings; Purpose**

(a) The Colville Business Council hereby finds: that the tribal trust lands of the Confederated Tribes of the Colville Reservation (as well as other tribally owned or managed lands) contain many areas suitable and desirable for camping and related recreational activities, whether or not established campgrounds may exist; that these areas are attractive to nonmembers of the Tribes as well as tribal members; that tribal members are entitled to expect a priority in the opportunity to use these areas due to their ancestral and aboriginal ties to the lands of the Reservation; and that in many cases nonmember use of these camping areas has resulted in crowded conditions and environmental degradation that conflict with enjoyment and use of these areas by tribal members.

(b) Consistent with the legislative intent set forth in this Chapter, the purpose of this subchapter is to establish policies and procedures to regulate and restrict nonmember camping activities on tribal trust lands and on other lands within the Reservation owned or managed by the Tribes, in order to protect the rights of tribal members to use and enjoy tribal lands, to prevent degradation of the land and natural resources, and to defray the cost of such regulation.

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**4-25-701            Closure; Permit Regulations; Public Notice**

- (a) Consistent with the policy previously established by the Colville Business Council, all tribal trust and fee lands of the Confederated Tribes of the Colville Reservation (whether located within or outside the exterior boundaries of the Reservation) are closed to camping by nonmembers of the Tribes except to the extent, and under such conditions, as they may be opened pursuant to regulation adopted by the Colville Business Council in accordance with this Chapter.
- (b) Such regulations may identify specified areas to be opened to nonmember camping, may provide that nonmembers must obtain a tribal camping permit to be maintained in their possession while camping, and may authorize the assessment of fees and other conditions as appropriate. Such regulations shall be reviewed on an annual basis, but shall remain in effect until modified or repealed by the Colville Business Council as provided by this Chapter.
- (c) Camping areas subject to closure or conditions shall be posted and identified in an efficient and reasonable manner, and the posting shall include a listing of camping rules based on the requirements of this subchapter and regulations and other applicable tribal law.
- (d) Due to the high rate of vandalism involving signs and posting of notices on the Reservation, it is incumbent upon individuals seeking to recreate on Reservation lands to contact the Natural Resources Department to ascertain closures and restrictions on the use and enjoyment of tribal lands and resources.

**4-25-702            Interpretation**

- (a) Nothing in this subchapter shall be interpreted to restrict the inherent or delegated authority of the Tribes to regulate any lands within the exterior boundaries of the Reservation or otherwise exercise its jurisdiction for reasons related to the protection and promotion of the political integrity, economic security, or health and welfare of the Tribes, including but not limited to protection of natural resources or reserved rights.
- (b) All prior resolutions and enactments relating to camping by nonmembers are hereby repealed to the extent they are inconsistent with the provisions of this subchapter or regulations approved pursuant hereto.
- (c) This subchapter is not intended to impose any conditions on camping activities of tribal members except to the extent such conditions may be imposed by regulation approved by the Colville Business Council when necessary to protect the resources of the Reservation; provided, that the Colville Business Council may by regulation restrict camping by nonmember guests and immediate family or family of tribal members.
- (d) This subchapter shall not be interpreted as establishing, as a matter of tribal law, any criminal penalties for camping activities by nonmembers of the Tribes (including where the language defining a civil violation is adopted from the tribal Criminal Code), but shall not be interpreted to preclude federal prosecutions pursuant to this Chapter or any applicable federal law.
- (e) If any part of this subchapter, or the regulations promulgated hereunder, is found to be invalid by a court of competent jurisdiction, it is the intent of the Colville Business Council that the remaining provisions shall continue in full force and effect to the maximum extent possible.

**4-25-703            Civil Offenses**

Notwithstanding any reference to the criminal offenses provisions of this Law and Order Code, the following constitute civil offenses under this subchapter:

- (a) No person shall violate any provision of this subchapter or any regulation promulgated hereunder;
- (b) Whenever a regulation adopted hereunder shall require a camping permit, the holder of the permit shall maintain the permit on his person or displayed in the windshield of his vehicle, as may be required by the regulation in question or the character of the campground. Any person subject to regulation under this subchapter and not in possession of a permit shall be in violation of this subchapter.

(c) No person subject to regulation under this subchapter shall possess a firearm in any campground or in any public area adjacent thereto, or on the waters of any lake or on the shoreline thereof or in any public area adjacent thereto, or on the waters of any lake or on the shoreline thereof or in any public area adjacent thereto, except to the extent authorized by tribal law permitting such person to exercise hunting privileges.

(d) No person subject to regulation under this subchapter shall engage in disorderly conduct, nor shall such person be under the influence of any intoxicating beverage, drug, or controlled substance as these offenses are defined in the criminal offenses provisions of this Code

(e) Any person who, while engaging in camping activities regulated by this subchapter, commits an act that is violation of any other provision of this Chapter or of any other applicable tribal law, shall also be deemed to have violated this subchapter.