

**LOWER ELWHA KLALLAM TRIBE
TREATY HUNTING ORDINANCE**

As Revised June, 2000, and Amended by Resolution 83-13, November, 2013

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1.1. TREATY HUNTING

1.1.1 TITLE

This ordinance shall be known as the Lower Elwha Klallam Treaty Hunting Ordinance.

1.1.2 DECLARATION OF POLICY

This ordinance is enacted for the protection, management, regulation and enhancement of the tribal game resource. Nothing in this ordinance shall be construed as a relinquishment, abrogation, or abridgement of any Lower Elwha Klallam treaty rights.

1.1.3 DEFINITIONS

1. "Adult" means any person who is eighteen (18) years old or older.
2. "Bag Limit" means the maximum number of animals which may be taken, caught, killed, or possessed by ordinance or regulation, for any particular period or time, and may include limits on size, sex, or species.
3. "Big Game" means elk or wapiti, blacktail deer, mountain goat, cougar or mountain lion, and black bear.
4. "Closed Areas" means any place described or designated by tribal regulation where it is unlawful to hunt.
5. "Closed Season" means all times during the entire year except those times an "open season" is designated by tribal regulation.
6. "Game Agent" means any person authorized by the Lower Elwha Klallam Tribe to enforce this ordinance or Lower Elwha Klallam Game regulations.
7. "Game Animals" means all wild animals other than "big game" animals and marine mammals that are classified by regulation as game animals.
8. "Game Birds" and "Migratory Waterfowl" means all wild birds that are classified by regulation as game birds.
9. "Hunt" and its derivatives ("hunting," "hunted," etc.) and "trap" and its derivatives ("trapping," etc.) means any effort to kill, injure, capture, or disturb a wild animal or wild bird.
10. "Marine Mammal" means mammals that live the majority of their lives in marine waters that are classified by regulation as game animals.

11. "Member" or "Lower Elwha Klallam Tribal Member" means a member of the Lower Elwha Klallam Tribe.
12. "Muzzle-Loaded Rifle" means a single or double-barrel wheel lock, matchlock, flintlock or percussion rifle with exposed ignition in which the black powder and ball or bullet must be loaded from the muzzle.
13. "Open Season" means those times, manners of taking and area established by tribal regulation for lawful hunting. "Open Season" includes the first and last days of the established time, unless otherwise specified.
14. "Permit" means a card, label or other identification device used for reporting bagged game.
15. "Public Roads" means those roads maintained by a County, the State of Washington, or the United States.
16. "Regulation" means any rule or regulation promulgated by the Lower Elwha Klallam Game Committee or the Tribal Council.
17. "Revocation of Hunting Privileges" means the revocation of all rights and privileges granted by a Lower Elwha Klallam Tribal Game Permit and the loss of eligibility to apply for a Lower Elwha Klallam Tribal Game Permit, for the duration specified by this ordinance or the action revoking the privileges.
18. "Tribal Council" means the Lower Elwha Klallam Business Committee.
19. "Tribe" means the Lower Elwha Klallam Tribe.
20. "Wildlife" means all wildlife species found within the jurisdiction of the Lower Elwha Klallam Tribe, including all lands subject to the Tribe's treaty hunting rights, except fish and domesticated animals.

1.1.4 JURISDICTION

1. Territory - The provisions of this ordinance and all rules and regulations adopted under it shall apply to the full extent of the sovereign jurisdiction of the Lower Elwha Klallam Tribe within and all open and unclaimed lands grounds and stations, as provided in the Treaty of Point No Point.
2. Persons - The provisions of this ordinance and all rules and regulations adopted under it shall apply to all persons purporting to exercise hunting rights secured to the Lower

Elwha Klallam Tribe by the Treaty of Point No Point or other applicable treaties or agreements, and where expressly noted shall also apply to other persons.

1.1.5 LOWER ELWHA KLALLAM GAME COMMITTEE

1. The Tribal Council shall appoint a Game Committee which shall be made up of five (5) Tribal members who are familiar with hunting techniques and the game resources within the Tribe's jurisdiction.
 - (A) Game Committee Members shall be appointed for three (3) year terms.
 - (B) The Game Committee shall elect a Chairman of the Game Committee from one of the voting members.
 - (C) If a Game Committee member resigns or a position otherwise becomes vacant before the term of that position expires, the Council shall appoint someone to serve the unexpired term.
2. For the purpose of conducting business, a quorum of the Game Committee shall be three members, which will include the Game Committee Chairman. Game Committee decisions shall be by simple majority vote of the members present. Whenever two or more of the Game Committee members disagree with the decisions of the Game Committee they may file their dissent and their reasons therefore with the Tribal Council.
3. The Chairman of the Game Committee shall be responsible for notifying Game Committee members of Game Committee meetings. No Game Committee meetings shall be held unless the Chairman of the Game Committee has made a good faith effort to notify each Game Committee member of the meeting. The Chairman of the Game Committee shall call a meeting at the request of the Tribal Council or Game Committee member, at any time required to implement this ordinance or as deemed necessary by the Chairman of the Game Committee.
4. The Game Committee shall act in an advisory capacity to the Tribal Council. Issues which may be addressed by the Game Committee include:
 - (A) Recommending times and places, when and where the taking and possession of any or all of the various classes of wildlife and game is lawful or is prohibited or otherwise limited;
 - (B) Recommending and defining the types and characteristics of weapons not already herein defined; and the time, place and manner in which it will be lawful to use or possess any hunting gear;

- (C) Recommending additional requirements and conditions for the issuance of tribal hunting permits beyond those set in this ordinance as well as any further restrictions on the use of such permits, and recommending procedures for the application for and issuance of such permits. In making these recommendations the Game Committee shall give preference to the use of wildlife and game for subsistence, religious, and ceremonial purposes.
 - (D) Regulating any other aspects of tribal hunting which the Tribe refers to the Game Committee.
5. The Game Committee shall regularly report to the Tribal Council its decisions, actions and recommendations.
 6. Except as otherwise provided in this ordinance or by the Tribal Council, no recommendation, action or decision of the Game Committee shall become effective.
 7. No person who has been convicted of a violation of this ordinance nor a regulation promulgated under it which the Tribal Court has determined to be a threat to the wildlife resource, shall be allowed to serve on the Game Committee for a period of two years after his or her conviction. A person so convicted during his or her term of office on the Game Committee may be removed from said office or employment upon conviction. Such removal shall be at the discretion of the Tribal Council in accordance with guidelines and procedures established by the Council.
 8. The Game Committee may at their discretion delegate any of their activities and authorities to a Tribal staff person according to all other policies and procedures set forth by this ordinance or regulations.

1.1.6 ADOPTION OF ANNUAL REGULATIONS

1. Prior to each hunting season, the Game Committee shall formulate and recommend to the Tribal Council any annual and seasonal regulations which are necessary to carry out the purpose of this ordinance. The regulations may establish open seasons, areas closed or open to hunting or trapping, bag limits, limitations on methods of taking game, and other measures for the protection and wise harvest of wildlife resources within the Tribe's jurisdiction.
2. Before proposing regulations as provided in this section the Game Committee shall make an effort to get all available information on the abundance and territories of various animal species within areas of the Lower Elwha Klallam Tribe's jurisdiction by consulting with appropriate personnel in the United States Fish and Wildlife Service, the United States Forest Service and Washington State Department of Wildlife as well as tribal technical staff.

3. No later than fifteen days after it receives recommended regulations from the Game Committee the Tribal Council shall either approve or amend and adopt the regulations or refer the proposed regulations back to the Game Committee with suggestions for changes. If the Tribal Council does not act on the Game Committee's recommendations within fifteen days, the Committee's proposed regulations shall be deemed approved by the Council and shall take effect immediately or according to their terms.

1.1.7 EMERGENCY REGULATIONS

1. The Game Committee may make emergency changes in annual or seasonal hunting regulations whenever it gets information which indicates that the changes are necessary for proper management of wildlife resources in areas under tribal jurisdiction.
2. Emergency regulations shall take effect as soon as they are adopted or at the time specified in the regulations. They shall remain in effect until withdrawn by the Game Committee, until they lapse by their own terms, or until the Tribal Council withdraws them.
3. All emergency regulations must be posted promptly at a public location on the reservation and must indicate the date and hour they were adopted. No penalty shall be imposed for violation of an emergency regulation unless 24 hours have passed since the regulation was issued or unless the violator was served personally with a notice or the regulation before the violation occurred.

1.1.8 GENERAL CLOSURES

1. The Lower Elwha Klallam Indian Reservation and all lands of the Tribe, whether or not held in trust for the Tribe by the United States, are closed to hunting by all persons, whether members of the Tribe or not, unless specifically opened by regulations adopted pursuant to this ordinance. Violation of this closure may subject the violator to criminal liability under 18 U.S.C. § 1165 or other federal laws.
2. All other areas within the Tribe's jurisdiction are closed to hunting by persons eligible to exercise rights under this ordinance unless those areas have been specifically opened by regulations adopted pursuant to this ordinance.
3. Any areas within the boundaries of State and National Parks are closed to hunting, unless specifically opened by emergency regulation.
4. Hunting within any area closed to public access due to extreme fire danger by the U.S. Forest Service or the Washington Department of Natural Resources is closed.

1.1.9 ELIGIBLE HUNTERS

1. Only enrolled members of the Lower Elwha Klallam Tribe may exercise **treaty** hunting rights under the authority of this ordinance.
2. Hunting by Minors
 - (A) No minor who is otherwise eligible to hunt under this ordinance may exercise treaty hunting rights unless he or she is accompanied by a parent or guardian who is a member, or unless he or she is authorized to hunt under Section 1.1.9.2(B).
 - (B) Enrolled members of the Lower Elwha Klallam Tribe between the ages of 14 through 17 may hunt under the provisions of this ordinance, *provided* they have been awarded a certificate of satisfactory completion from a qualified Hunter Safety course, *and* are accompanied by an eligible Tribal member who is 18 years old or older. The determination of whether a minor may hunt under this section shall be made by the Game Committee based on information regarding the minor's completion of a Hunter Safety course, and who will be accompanying the minor.
 - (C) It is the duty of the parent or guardian of any minor who exercises treaty hunting rights pursuant to this section to insure compliance. No minor shall be issued a hunting permit without the signed consent of his or her parent or guardian. Said consent shall clearly indicate the duty of the parent or guardian to ensure compliance with this subsection. Both the parent or guardian who permits a minor to hunt under this section *and* the minor shall be subject to prosecution for violation of this ordinance.
3. Non-member spouses of members may assist members as follows:
 - (A) The non-member spouse of a Lower Elwha Klallam tribal member has no right to exercise treaty hunting rights of the Lower Elwha Klallam Tribe. The privilege to be assisted by his or her non-member spouse belongs to the tribal member.
 - (B) An enrolled member of the Lower Elwha Klallam Tribe may be assisted by his/her non-member spouse so long as they are married to each other. The member spouse *must be immediately present* during any treaty hunting activity.
 - (C) A non-member spouse who is eligible to assist shall obtain the appropriate tribal identification cards and permits before hunting, as specified in Section 1.1.14 of this ordinance.
 - (D) Members are responsible for the conduct of their non-member spouse in hunting related activities; violations of this ordinance or regulations promulgated under it

shall subject the member spouse to citation to the Tribal Court in the place of the non-member spouse.

- (E) Under this provision the term "assist" shall be defined to include any normal hunting activities permitted by this ordinance *except carrying or discharging weapons*. Non-member spouses may bear weapons only if licensed under the provisions of Section 1.1.13 of this ordinance.

1.1.10 HUNTING FOR CEREMONIAL USE

The Game Committee may issue permits to allow wildlife to be bagged for funerals, ceremonies, and other Tribal uses. The permit shall specify the type, sex and number of animals to be hunted, and any other conditions the Committee attaches. Permits under this section may be issued for use during a closed season. The Game Committee shall authorize a "designated hunter" to receive the permit. Requests for permits under this section must be submitted in writing to the Game Committee.

1.1.11 HUNTING FOR ANOTHER

The Handicapped and Senior Citizens of the Lower Elwha Klallam Tribe may submit in writing to the Lower Elwha Game Committee for a permit to have a Designated Hunter to hunt for them. Requests must state why the person is unable to hunt for himself, and must demonstrate a need to the Game Committee. *No member of the household making the request may exercise treaty hunting rights themselves that hunting season.* All provisions of this ordinance and Lower Elwha Klallam hunting regulations shall apply to hunting under this section.

Handicapped:	Crippled or Disabled
Senior Citizen:	55 years and older

1.1.12 DESIGNATED HUNTER

1. Any eligible hunter with a valid hunting permit may submit his or her name to the Game Committee to be considered for placement on a list of "designated hunters." When the Game Committee grants a request under Section 1.1.10 or 1.1.11 of this ordinance, it shall notify a designated hunter and issue the appropriate permit. The designated hunter shall comply with the terms of the permit and all other applicable provisions.
2. Eligibility requirements for designated hunters are:
 - (A) Demonstrated hunting ability.
 - (B) Be an enrolled member of the Lower Elwha Klallam Tribe.
 - (C) Be at least 18 years old.

- (D) Have no tribal or state hunting convictions (in which the state offense is also a violation of tribal law) for the previous two years.
- (E) Persons prohibited from carrying a firearm under tribal, state, or federal law are not eligible.

1.1.13 ASSISTANCE BY NON-MEMBERS

It shall be lawful for members to exercise hunting rights with non-members likewise hunting, provided that the non-member is appropriately licensed by the State of Washington and is hunting according to current State laws and regulations.

1.1.14 REQUIRED IDENTIFICATION AND PERMIT

1. Tribal members

- (A) No Tribal member who is eligible to hunt under Section 1.1.10 of this ordinance shall exercise any treaty hunting right unless he or she is in possession of valid current identification consisting either of a Treaty Indian Fishing and Hunting Identification card issued by the Bureau of Indian Affairs or a tribal fishing card with a picture identification, and a valid hunting permit issued by the Tribe as provided in Section 1.1.14.1(B).
- (B) All Tribal members purporting to exercise treaty hunting rights shall obtain an annual Tribal Hunting Permit for each species hunted. All such permits shall be non-transferable and shall expire on the dates set forth in the annual regulations. The Tribal Hunting Permit shall also serve as a reporting card for game bagged as provided in Section 1.2.9.
- (C) All Tribal members must obtain a Tribal Hunting Permit prior to hunting the following species: deer, elk, bear, cougar, bighorn sheep and mountain goat. All tribal members shall obtain a special tribal hunting permit prior to hunting California Sea Lions or Harbor Seals. Successful hunters shall immediately fill out the permit appropriately (species, sex, area, and date) and attach the permit to the harvested animal.
- (D) All identification cards and permit documents issued by the Lower Elwha Klallam Tribe shall remain the property of the Lower Elwha Klallam Tribe and shall be returned to the Tribe upon order of the Tribal Court or as otherwise provided in this ordinance.
- (E) No Tribal Hunting Permit shall be issued for a given year unless and until the hunter has paid *lost* or *late* permit fees and all Tribal fines for hunting violations levied during previous seasons.

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- (F) The Tribal Council and Game Committee shall have the power to set fees for hunting permits by appropriate resolution.
2. Ceremonial Hunting: Only enrolled members of the Lower Elwha Klallam Tribe shall exercise ceremonial hunting rights. Members hunting for ceremonial purposes shall have in their possession *either* a Treaty Indian Fishing and Hunting Identification card issued by the Bureau of Indian Affairs *or* a tribal fishing card with a picture identification, *as well as* a permit as provided in Section 1.1.10. Each ceremonial hunter shall report his or her ceremonial catch to the Game Committee as provided in the permit.
 3. Tribal Member Minor - Required Identification: Minors who are members of the Tribe and are purporting to exercise treaty hunting rights under Section 1.1.9.2 must have in their possession either a Treaty Indian Fishing and Hunting Identification card issued by the Bureau of Indian Affairs or a tribal fishing card with photo identification.
 4. Tribal Spouse Required Identification:
 - (A) Tribal Spouses shall have in their possession a Tribal Spouse card while engaged in assisting Tribal members in the exercise of Treaty hunting activities. The Tribal Spouse card shall be an unembossed identification card issued or approved by the Tribal Council for the purpose of identifying the holder as a spouse of a Lower Elwha Klallam Tribal member and is eligible to assist said Tribal member in the exercise of treaty hunting and fishing rights. The card shall bear a photograph of the holder and shall show the Tribal member's name, and enrollment number, and any other information the Tribal Council deems necessary.
 - (B) The Tribe acting through its Game Committee retains the right to suspend or revoke identification cards or hunting permits issued to non-members who have been violating this ordinance. A determination whether such a violation has occurred shall be made by the Game Committee in an open hearing. Decisions of the Game Committee may be appealed to the Tribal Council whose decision shall not be subject to judicial review.
 5. Any person hunting shall produce for examination the applicable identification cards and hunting permits required by this section upon demand of any tribal, state or federal law enforcement official. Failure to produce the required forms of identification shall be probable cause to believe that such person is not authorized to exercise tribal hunting rights.

1.1.15 OPENING

Hunting by Tribal members within the jurisdiction of the Lower Elwha Klallam Tribe is permitted whenever all citizen hunting is opened and/or whenever any such areas are specifically opened by regulations under this ordinance.

1.1.16 MARINE MAMMALS

1. It is prohibited to harass, kill, harvest or take any marine mammal except as otherwise provided by this Ordinance, Lower Elwha Klallam tribal regulation or federal law.
2. Marine mammals may not be hunted for ceremonial, subsistence, or other purposes except as provided for in annual or emergency Lower Elwha Klallam Regulations. No marine mammal shall be harvested except by a special permit issued by the Lower Elwha Klallam Tribe, except as provided in Sections 1.1.16.4, 1.1.16.5 and 1.1.16.6.
3. A tribal fisher in the act of fishing is allowed to deter a marine mammal from damaging fishing gear, catch, private property, or endangering personal safety, so long as such measures do not result in the death or serious injury of the marine mammal, except as provided for in Section 1.1.16.4.
4. A tribal fisher in the act of fishing is allowed to deter Harbor Seals or California Sea Lions from damaging fishing gear, catch, private property, or endangering personal safety, using any lethal means, provided that all reasonable steps to deter the marine mammal using non-lethal means were first taken. Lethal take must be recorded on a marine mammal reporting card (available from the Lower Elwha Klallam Tribal Fisheries Office). These reporting cards must be returned to the Tribal Fisheries Office by April 1 of each year.
5. Tribal members are allowed to take, kill or injure a marine mammal if it is imminently necessary in self-defense or to save the life of a person in immediate danger. All such incidents shall be recorded on the marine mammal reporting card.
6. Marine mammals may be accidentally killed or seriously injured as a result of a tribal fishing operation using proper fishing gear; i.e., gear entanglement. Such cases must be reported on the marine mammal reporting card.
7. Marine mammals taken under the Lower Elwha Klallam annual or emergency hunting regulations shall not be wasted. All carcasses shall be detained and given over to the Lower Elwha Klallam Fisheries Department or their designee for biological sampling, after which they may be utilized by the tribal hunter. Every effort shall be made to prevent wasting of carcasses of marine mammals taken under any of the other above provisions.

8. Firearms may not be discharged from a boat under power (in gear) when hunting marine mammals.

1.2 OFFENSES

1.2.1 HUNTING —WITHOUT OBTAINING PERMITS

Any person who fails to obtain a permit required by Section 1.1.14 or by regulation is guilty of an offense, and upon conviction shall be sentenced to:

- A. A mandatory, minimum fine of \$500.00. The maximum fine which may be imposed is, \$1,000.00 and
- B. Mandatory revocation of hunting privileges for not less than one year, not to exceed three years.

1.2.2 HUNTING WITHOUT PERMITS IN POSSESSION

Any person who has obtained a valid permit required by this ordinance or tribal regulation but who does not have the permit in his or her possession while hunting or transporting wildlife, has committed a violation, and upon conviction shall be sentenced to: a mandatory minimum fine of \$500.00. The maximum fine which may be imposed is \$1,000.00

1.2.3 UNAUTHORIZED TRANSFER OF PERMIT OR IDENTIFICATION

Any person who transfers any hunting permit or identification issued to him or her under this Ordinance or regulations to another person for the purpose of allowing the transferee to engage in hunting, and any person who uses any permit or identification issued to another under this Ordinance or regulation is guilty of an offense, and upon conviction shall be sentenced to:

- A. A mandatory fine of \$500.00 and
- B. Mandatory revocation of hunting privileges for one year.

1.2.4 HUNTING DURING CLOSED SEASON

Any person who hunts during closed season as established by this ordinance or regulation is guilty of an offense, and upon conviction shall be sentenced to:

- A. A mandatory minimum fine of \$1,000.00. The maximum fine which may be imposed is \$5,000.00, and

- B. Mandatory revocation of hunting privileges for not less than one year, not to exceed three years.
- C. The Court may also, in its discretion, impose jail time for a period not to exceed 30 days.

1.2.5 POSSESSION OF WILDLIFE TAKEN DURING A CLOSED SEASON

Any person who possesses any wildlife killed during a closed season or who has otherwise taken or killed wildlife contrary to the provisions of this ordinance or regulations has committed a violation and upon conviction what be sentenced to:

- A. A mandatory fine of \$500.00, and
- B. Mandatory revocation of hunting privileges for not less than one year, not to exceed three years.

1.2.6 ANIMALS WRONGFULLY TAKEN

Any person who kills, injures, takes, captures, or possesses wildlife in any manner or by any means contrary to this ordinance or regulation, is guilty of an offense, and upon conviction shall be sentenced to:

(A) A minimum fine for each animal as follows:

Eagles:	\$5,000.00
Elk:	\$1,500.00
Cougar:	\$500.00
Deer:	\$500.00
Bear:	\$500.00
Mountain Goat:	\$500.00
Marine Mammal:	\$250 minimum
Game Animals:	\$100.00
Game Birds:	\$100.00
Swans:	\$1,000.00, and

(B) Mandatory revocation of hunting privileges for one year.

1.2.7 HUNTING IN CLOSED AREAS

Any person who hunts within the boundaries of a closed area designated by this ordinance or regulation, is guilty of an offense, and upon conviction shall be sentenced to

(A) A mandatory minimum fine of \$1,000. The maximum fine which may be imposed is

\$5,000, and

- (B) Mandatory revocation of hunting privileges for not less than one year, not to exceed three years.

1.2.8 BAG LIMITS

Any person who exceeds the bag limit set by regulation, is guilty of an offense, and upon conviction shall be sentenced to:

- (A) A mandatory minimum fine of \$500.00, and
- (B) Mandatory revocation of hunting privileges for one year.

1.2.9 REPORTING BAGGED GAME

1. Each time a hunter bags big game, he/she shall immediately record the catch on his/her tribal hunting permit, (including the species, sex and location harvested), and attach the permit to the animal. All the game in the hunter's possession must be recorded immediately.
2. Each hunter shall send his/her Tribal Hunting Permit to the Tribal Office within 5 days of harvest, or within 30 days of the end of the season if there was no harvest.
3. Any person who fails to comply with Section 1.2.9.1 or 1.2.9.2) is guilty of an offense, and upon conviction shall be sentenced to a mandatory, minimum fine of \$50.00 for all permits except elk. For elk permits, the mandatory, minimum fine is \$250 plus revocation of hunting privileges for one year.

1.2.10 TRAP INSPECTION

Any person who fails to inspect any trap or trapline he or she has set and such failure results in spoilage of the game, is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$100.00.

1.2.11 INTERFERENCE WITH TRAPS

Any person who takes wildlife from another person's trap without permission, or springs, damages, possesses or removes another person's trap is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$100.00. The maximum fine which may be imposed is \$250.00.

1.2.12 WASTING BIG GAME

Any person who kills big game and causes it to go to waste, is guilty of an offense, upon conviction shall be sentenced to:

- (A) A mandatory, minimum fine of \$500.00. The maximum fine which may be imposed is \$5,000.00, and
- (B) Mandatory revocation of hunting privileges for not less than one year, not to exceed three years.

1.2.13 WASTING GAME BIRDS OR ANIMALS

Any person who kills game birds or game animals and causes them to go to waste, is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$100.00. The maximum fine which may be imposed is \$250.00.

1.2.14 SELLING WILDLIFE PROHIBITED

Any person who sells, trades, barter, or exchanges wildlife that he or she has killed or taken from the jurisdiction of the Lower Elwha Klallam Tribe for anything of monetary value, is guilty of an offense, and upon conviction shall be sentenced to:

- (A) A mandatory minimum fine of \$500.00. The maximum fine which may be imposed is \$5,000.00;
- (B) Mandatory revocation of hunting privileges for one year; and
- (C) Jail time for a period not to exceed 30 days.

1.2.15 TRANSPORTING BIG GAME WITHOUT A PERMIT

Any person who transports a big game animal, without a permit attached to the animal, is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$250.00.

1.2.16 TRANSPORTING LOADED FIREARMS

Any person, except authorized law enforcement officers, who carries, transports, conveys or possess: a) a shotgun or rifle containing shells or cartridges in the magazine or chamber, or b) a muzzle loading firearm loaded and capped or primed; in or on a motor vehicle is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$250.00.

1.2.17 SHOOTING FIREARMS ACROSS PUBLIC ROADS

Any person, except authorized law enforcement officers, who discharges a firearm from, across or along the maintained portion of a public road is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$250.00.

1.2.18 SHOOTING ARROWS ACROSS PUBLIC ROADS

Any person who shoots an arrow from a vehicle or shoots an arrow from across or along the maintained portion of a public road is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$250.00.

1.2.19 HUNTING FROM A VEHICLE OR BOAT UNDER POWER

1. Any person who hunts from a moving vehicle or pursues game off the road with a motor vehicle, except when hunting marine mammals from a boat, is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$250.00.
2. Any person who discharges a firearm from a boat under power (in gear) is guilty of an offense, and upon conviction, shall be sentenced to a minimum mandatory fine of \$250.00.

1.2.20 HUNTING OTHER THAN DAYLIGHT HOURS

Any person who hunts earlier than one hour before sunrise or later than one hour after sunset is guilty of an offense and upon conviction shall be sentenced to a minimum mandatory fine of \$250.00.

1.2.21 HUNTING WITH ARTIFICIAL LIGHT

Any person who hunts with an artificial light, is guilty of an offense, and upon conviction shall be sentenced to:

- (A) A minimum, mandatory fine of \$500.00, or
- (B) Revocation of hunting privileges for one year.
- (C) Or both.

1.2.22 USE OF DOGS

Any person accompanied by a dog while deer or elk hunting, is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$150.00.

1.2.23 HUNTING WHILE INTOXICATED

Any person who hunts while under the influence of alcohol or illegal drugs is guilty of an offence, and upon conviction shall be sentenced to:

A. A minimum, mandatory fine of \$500.00. and

B. Mandatory revocation of hunting privileges for three years.

1.2.24 HUNTING BY MINORS UNDER THE AGE OF FOURTEEN

Any child under the age of fourteen (14) who hunts is guilty of an offense. Parents and guardians of children who violate this section are responsible for the child's act and upon conviction of the parent shall be sentenced to a minimum, mandatory fine of \$250.00.

1.2.25 HUNTING BY MINORS AGE FOURTEEN THROUGH SEVENTEEN

Any person over the age of thirteen (13) and under the age of eighteen (18) years old who hunts unaccompanied by an authorized adult under this ordinance or has not been issued a hunter safety certificate is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$150.00. The court, in its discretion, may allow the defendant to provide work for the Tribe in lieu of all or part of the fine, at a rate not to exceed the federal minimum wage.

1.2.26 PROHIBITION ON HUNTING EAGLES

Any person who kills, takes, catches, or possesses eagle, or eagle parts, nest or egg are in violation of any federal statute passed for the protection of eagles is guilty of an offense, and upon conviction shall be sentenced to a mandatory fine of \$5,000.00, or jail time not to exceed three years, or both.

1.2.27 LAYING OUT BAIT

Any person who lays or sets out any bait to lure wildlife for hunting, except as per State Regulations, including but not limited to salt licks, is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$250.00.

1.2.28 LAYING OUT A DRUG, EXPLOSIVE OR POISON

Any person who lays or sets out a drug, explosive or poison that endanger, injure or kill wildlife is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$500.00.

1.2.29 MUTILATION OF WILDLIFE

Any person who mutilates wildlife so that the species and sex cannot be determined visually in the field or while being transported is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$500.00.

1.2.30 SHOOTING LIVESTOCK

Any person who shoots any domestic livestock while hunting is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$250.00 and restitution in an amount sufficient to compensate the owner for the loss of, or injury to, domestic livestock

1.2.31 BIG GAME HUNTING - FIREARMS RESTRICTIONS

Any person who hunts big game with any of the following, is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$250.00.

- (A) A fully automatic firearm.
- (B) A rifle with a bore diameter less than .240 of an inch (6mm), or barrel length less than 16 inches.
- (C) A rifle cartridge with bullet weighing less than 85 grains, or that develops less than 900 pounds of energy at 100 yards.
- (D) A rifle cartridge containing a bullet other than a mushrooming or expanding type, designed for big game hunting.
- (E) A shotgun; except that shotgun which is 20 gauge or larger, using shell loaded with slugs or buckshot size #1 or larger, may be used to hunt deer, bear, and cougar. Other big game may be hunted with a 10 or 12 gauge shotgun using slugs.
- (F) A handgun; except that a deer, bear or cougar may be hunted with a 41 magnum, 44 magnum, 44 automatic magnum, 45 Winchester magnum, or any handgun, 24 caliber or larger provided its barrel is at least 6 inches long and uses a centerfire cartridge with a minimum overall length of at least 2 inches and is loaded with mushrooming or expanding type bullet or 100 grains or more, designed for big game hunting.
- (G) A bow that possesses less than 40 pounds of pull, measured at 28 inches or less draw length.
- (H) Any arrows, except those having sharp broadhead blade or blades at least seven-eighths of an inch wide. The broadhead must be unbarbed and completely closed at

the back end of the blade or blades by a smooth, unbroken surface starting at maximum blade width forming a smooth line toward the feather end of the shaft and such line shall not angle toward the point.

- (I) Any muzzle-loaded rifle which does not meet the following requirements:
If the rifle has a removable breech plug, such removal must require the use of tools.
Has a single or double barrel of at least 20 inches in length, rifled or smooth; such measurement to be taken from land to land in the barrel. Minimum caliber is 40.
Ignition is to be wheel lock, matchlock, flintlock, or percussion using original style percussion caps that fit on the nipple and are exposed to the elements. Sights must be metal. Telescopic sight or sights containing glass are prohibited. Fiber optic sights are not legal.

1.2.32 CROSSBOW HUNTING PROHIBITED

Any person who hunts with a crossbow, is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$500.00.

1.2.33 HUNTING OF GAME ANIMALS WITH SHOTGUN

No person shall hunt small game animals with a shotgun larger than 10 gauge. Violation of this section is an offense, and upon conviction a person shall be sentenced to a mandatory fine of \$100.00.

1.2.34 GAME BIRDS - SPECIAL RESTRICTIONS

1. No person shall hunt game birds with:
 - (A) A shotgun larger than 10 gauge.
 - (B) A rifle or pistol, with the exception of blue grouse, spruce grouse, and ruffed grouse.
2. No person shall hunt migratory waterfowl with lead shot.
3. Violation of this section is an offense, and upon conviction a person shall be sentenced to a minimum mandatory fine of \$250.00.

1.2.35 DEFACING

Any person who destroys, tears down, shoots at, defaces or erases any printed matter or signs placed to assist in the enforcement of hunting regulations is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$100.00. The maximum fine which may be imposed is \$500.00.

1.2.36 OBSTRUCTING ENFORCEMENT OFFICERS PROHIBITED

Any person who resists or obstructs any duly authorized game agent in the discharge or his duties under this ordinance or regulations is guilty of an offense, and upon conviction shall be sentenced to a minimum, mandatory fine of \$100.00. The maximum fine which may be imposed is \$500.00.

1.2.37 FAILURE TO PRODUCE IDENTIFICATION, PERMIT & TAGS TO ENFORCEMENT OFFICERS

Any person who fails to produce for examination his or her identification and permits required by this Ordinance or regulations, upon demand by any tribal, state or federal enforcement officer, is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$100.00.

1.2.38 ASSAULT

Any person who uses or threatens to use force or violence against a Game Agent or any other person is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$500.00.

1.2.39 ELUDING

Any person who fails to or refuses to stop after being given a visible or audible signal by a Game Agent is guilty of an offense and upon conviction shall be sentenced to a minimum mandatory fine of \$100.00

1.2.40 GIVING FALSE INFORMATION TO AN OFFICER

Any person who knowingly gives false information to a Game Agent is guilty of an offense, and upon conviction shall be sentenced to a minimum mandatory fine of \$250.00.

1.2.41 AIDING AND ABETTING

Any person who knowingly aids and abets another person to engage in conduct which is unlawful under this ordinance or regulation is guilty of an offense and upon conviction shall be sentenced to the same degree as if he or she had committed the primary offense.

1.2.42 HUNTING WHILE PRIVILEGE IS REVOKED

Any person who hunts while his or her hunting privilege is revoked is guilty of an

offense, and upon conviction shall be sentenced to:

- A. A minimum mandatory fine of \$500.00, and
- B. Mandatory revocation of hunting privileges for a minimum of three years.

1.2.43 HUNTER ORANGE

1. Any person hunting deer or elk under this Ordinance shall wear fluorescent hunter orange clothing during any modern firearm season authorized by the State of Washington.
2. Any person hunting bear, cougar, bobcat, raccoon, fox, coyote, rabbit, forest grouse, or hare under this Ordinance shall wear fluorescent hunter orange clothing when hunting in any location opened at that time by the State of Washington to the taking of deer or elk by modern firearm.
3. Wearing fluorescent hunter orange clothing means: A minimum of 400 square inches of fluorescent hunter orange exterior clothing, worn above the waist and visible from all sides.
4. Violation of this section is punishable by a minimum fine of \$250.00.

1.3 PENALTIES AND SENTENCING

1.3.1 PENALTIES AND SENTENCING

Sentences listed for each offense herein apply to convictions for the first violation of the ordinance. The Tribal Court shall not suspend or reduce any minimum sentence under this ordinance. Hunters convicted of violations under this ordinance shall have their hunting privilege revoked until all court fines and sentences are fully satisfied.

1.3.2 REPEAT OFFENDERS

Any person who is convicted of a second or subsequent violation of this ordinance (whether the same or a different offense) within five years of the first conviction shall be sentenced as follows:

- (A) Unless otherwise specified, the sentence shall be a minimum, mandatory fine in an amount which is twice the minimum, mandatory fine for a first violation for that offense, and a minimum, mandatory jail sentence of two days in jail
- (B) If the second conviction is for violating any of the following:

Section 1.2.1 Hunting without Obtaining Permits,
Section 1.2.3 Unauthorized Transfer of Permit or Identification,
Section 1.2.4 Hunting During Closed Season,
Section 1.2.5 Possession of Wildlife Taken During a Closed Season,
Section 1.2.6 Animals Wrongfully Taken,
Section 1.2.7 Hunting in Closed Areas,
Section 1.2.8 Bag Limit,
Section 1.2.9 Reporting Big Game;
Section 1.2.12 Wasting Big Game;
Section 1.2.14 Selling Wildlife;
Section 1.2.21 Hunting with Artificial Light; or
Section 1.2.23 Hunting While Intoxicated,

The sentence shall be the same as subsection (A) above, and mandatory revocation of all hunting privileges for no less than three years.

(C) If the second conviction is for violating Section 1.2.26, Prohibition on Hunting Eagles, the sentence shall be a mandatory fine of \$5,000.00 and a mandatory minimum jail sentence of six months, and a mandatory revocation of all hunting privileges for not less than three years, after which time the Game Committee will review the case and decide whether the offender may get his or her permit.

1.3.3 CONVICTION AS BAR TO GAME COMMITTEE MEMBERSHIP

Any person who has been convicted of a violation of this ordinance or a regulation promulgated hereunder may, at the discretion of the Tribal Council, be barred from serving on the Game Committee for a period of two (2) years after serving his/her conviction. The Tribal Council shall appoint someone to serve the remaining term of office of the convicted Game Committee member.

1.3.4 LIBERAL CONSTRUCTION

This ordinance shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.

1.4 ENFORCEMENT

1.4.1 GAME AGENTS

The Lower Elwha Klallam Tribal Council shall appoint one or more persons to serve as game agents. A game agent shall have the authority to enforce the provisions of this ordinance and all emergency and annual regulations promulgated hereunder. The Tribal Council may, upon request from a game agent, appoint and deputize a person to assist a game agent in the performance of his or her duties.

1.4.2 CROSS - DEPUTIZATION

The Tribal Council may enter into an agreement with another Tribe, Treaty Council, or State, Federal, or County Government providing for the cross-deputization of game agents and/or law enforcement officers.

1.4.3 ARREST

1. Game agents shall have authority to arrest an Indian person purporting to exercise Tribal hunting rights who is in violation of any regulation adopted hereunder. No game agent shall arrest any person for a violation of this ordinance or the above mentioned regulations except when:
 - (A) The offense occurs in the presence of the arresting officer: or
 - (B) The agent has probable cause to believe that the person being arrested has committed the alleged offense: or
 - (C) The agent has a warrant signed by a Tribal Judge commanding the arrest of such person or knows as a certainty that such warrant has been issued.
2. In those situations where the game agent is authorized to make an arrest, the agent may instead, in his or her discretion, issue either written warning or a citation on a form approved by the Tribe commanding the alleged violator to appear before the Tribal Court to answer the charges.

1.4.4 NOTIFICATION OF RIGHTS

1. Immediately upon arrest an alleged violator shall be advised of the following:
 - (A) The charges against him or her;
 - (B) That he or she has a right to remain silent;
 - (C) That anything he or she says may be used against him or her in court;
 - (D) That he or she has a right to be represented by an attorney or spokesman at his or her expense.
2. If arrest is made pursuant to a warrant, the accused shall be given a copy of the warrant at the time of the arrest or as soon thereafter as possible.

1.4.5 SEARCHES WITH OR WITHOUT WARRANT

1. A game agent may utilize standard law enforcement procedures to search without warrant any gear, vehicle, tent, camper, or any place or premises at or near a hunting site provided the agent has probable cause to believe that the site contains evidence of violations of this ordinance.
2. The Tribal Court may issue a search warrant and direct a search to be made in any place wherein it is alleged that any evidence of violation of this ordinance or of the Tribe are concealed or kept.

1.4.6 SEIZURE OF WILDLIFE

1. Upon arrest or upon issuance of a citation, the game agent may seize all wildlife and parts of wildlife which the agent has reasonable grounds to believe have been taken or killed by the alleged violator contrary to the provisions of this ordinance, or any regulations promulgated hereunder. A game agent may in addition, seize any weapons or other paraphernalia (excluding the hunter's vehicle) which the agent has reasonable grounds to believe has been used in the commission of a violation of this ordinance or any regulation promulgated hereunder.
2. A game agent who has seized wildlife, weapons or any other items pursuant to this section shall prepare a written inventory of all items seized which shall be signed by the game agent and the alleged violator. When unattended gear and/or its contents are seized, the inventory shall be signed by the agent. In all cases, one copy of the inventory shall be filed with the Tribal Court, and one copy returned to the Lower Elwha Klallam Game Committee.
3. All items, other than perishable wildlife and wildlife parts, seized pursuant to this section shall, as soon as practicable, be brought to the Tribal Office or other places designated by the Tribe for the storage of seized property. Seized property shall be stored in such manner as to minimize further damage to it and shall be held until disposed of pursuant to order of the Tribal Court.
4. Any person who has perishable meat seized under the authority of this ordinance may elect to have the meat frozen and stored, pending the outcome of the court proceedings, or to have the Game Committee dispose of the meat for Tribal purposes. If the person is acquitted or charges are dismissed the frozen meat shall be returned or, if the meat was disposed of by the Game Committee, the person shall be issued a permit to bag a replacement animal.

1.4.7 RETURN OF SEIZED PROPERTY - NON-PERISHABLE

1. Any person whose property has been seized under the authority of this ordinance may

apply immediately to the Tribal Court for release of said property if the Court determines that said release is in the best interest of the wildlife resource. The Tribal Court shall expedite all hearing requests under this section.

2. If the person whose property has been seized pursuant to the ordinance is acquitted or charges against the person are dismissed, the Court shall order immediate return of the property.

1.4.8 FORFEITURE PROCEDURES

1. When a person has been convicted of violating a provision of this ordinance or any regulation promulgated pursuant thereto, the court may order forfeiture of any items seized in connection with the violation. The convicted person shall be given the opportunity to present evidence and argument to the Tribal Court regarding why it would be inequitable to forfeit those items seized.
2. In all cases where the owner of items seized is unknown, the Tribal Court shall have the power to order the forfeiture of any articles seized.
3. The game agent who makes a seizure shall immediately post at prominent public locations on the reservation a notice describing the items and the time and place of seizure. The notice shall provide that person wishing to claim articles, must do so within ten (10) days after the notice is posted.
4. If no one claims unmarked articles seized pursuant to this ordinance within the time limit provided, the Game Committee may dispose of it. Any proceeds from the disposition of the property shall be turned over to the Tribe.
5. If a person does claim unmarked articles seized by a game agent, the Tribal Court shall hold an expedited hearing to determine whether the property shall be returned to the owner, as provided in Section 1.4.7.

1.4.9 DISPOSITION OF PROPERTY FORFEITED

In the event the Tribal Court orders forfeiture of articles seized, the articles shall be turned over to the Lower Elwha Klallam Game Committee for the use and benefit of the Tribe. Any items or proceeds not forfeited by the order of the Tribal Court shall be returned to the person from whom seized, after the completion of the case and after the fines, if any, have been paid.

1.4.10 CITATION TO TRIBAL COURT

1. All persons charged with a violation of this ordinance or regulation promulgated under it shall be cited to appear and answer said charges before the Tribal Court.

2. Except in the case of a bail forfeiture, failure to appear in Tribal Court shall constitute a separate offense and shall be punishable as any other violation of this ordinance.
3. Failure to comply with a Tribal Court order shall constitute a separate offense and shall be punishable as any other violation of the ordinance.

1.4.11 SEVERABILITY CLAUSE

If any provision of this ordinance, or its application to any person or legal entity or circumstance, is held invalid, the remainder of the ordinance, or the application of the provision to other person or legal entities or circumstances, shall not be affected.