

**3.07 Fish Stocking; Undesirable Exotic Aquatic Plants or Wild Animals.**

(1) Except in connection with a harvest activity authorized by this ordinance or as otherwise permitted by controlling law, a member may not import, transport or stock in any waters in the Minnesota Ceded Territory live fish eggs, fresh spawn, or immature or adult fish of any species or any mussel, turtle or crayfish without a permit issued by the Commissioner.

(2) (a) The Commissioner is authorized to establish a ceded territory program to prevent and curb the spread of harmful exotic species. This program may include a long-term plan, which may include specific plans for individual species, for ceded territory wide management of harmful exotic species. Any exotic species program or harmful exotic species management plan may be developed in conjunction with any corresponding state management plan required by state law. The Commissioner may adopt the state management plan, or relevant portions thereof, as the ceded territory program.

(b) For the purposes of this ordinance, the term "exotic species" means a wild animal or plant species that is not naturally present or reproducing within the ceded territory or that does not naturally expand from its historic range in the ceded territory, and the term "harmful exotic species" means an exotic species that can naturalize and either:

(i) causes or may cause displacement of or otherwise threaten native species in their natural communities; or

(ii) threaten or may threaten natural resources or their use in the ceded territory.

(3) (a) No later than May 1 of each year and at such other times during the year as may be necessary, the Commissioner shall designate any waters of the ceded territory as infested waters if the Commissioner determines that they contain a harmful exotic species that could spread to other waters if use of the water and related activities are not regulated to prevent this. The Commissioner's designation of infested waters, if any, may incorporate the parallel designations under Minnesota state law. The notice that the Commissioner provides to members of the infested waters designations may be the same notice provided for the same waters by the Minnesota Department of Natural Resources under state law. Should the Commissioner fail or choose not to make any infested waters designations required under this subsection, the infested waters designations by the Minnesota Department of Natural Resources under state law, and the accompanying public notice of those designations, shall be deemed the Commissioner's designations for the purposes of this ordinance.

(b) For the purposes of this ordinance, the term "infested waters" means waters and waterbodies identified by the Commissioner as having populations of select harmful exotic species such as zebra mussel (all species of the genus *Dreissena*), Eurasian milfoil (*Myriophyllum spicatum*), ruffe (*Gymnocephalus cernuus*), spiny water flea, or white perch (*Morone americana*).

(c) No member shall take any wild animal from infested waters for bait purposes.

(d) No member shall fail to:

(i) dry for a minimum of 10 days or freeze for a minimum of 2 days before use in noninfested waters any net or associated piece of equipment, including any trap, buoy, anchor, stake or line;

(ii) remove all aquatic vegetation from nets or associated equipment when they are removed from infested waters; or

(iii) notify the Commissioner or a Band or Commission warden when removing nets from infested waters and before re-setting those nets in noninfested waters.

(e) No member shall use water from infested waters to transport fish without a permit from the Commissioner.

(f) No member leaving infested waters identified as having populations of zebra mussels or spiny water flea shall fail to drain bait containers, other boating related equipment holding water, and livewells and bilges by removing the drain plug before transporting the watercraft and associated equipment on public roads.

(g) No member shall transport infested waters on a public road or off property riparian to infested waters except as otherwise authorized by Minnesota state law or under special permit issued by the Commissioner, and no member shall divert infested waters except in compliance with Minnesota state law or in accordance with a special permit issued by the Commissioner.

(4) (a) No later than May 1 of each year and at such other times during the year as may be necessary, the Commissioner shall designate waters of the ceded territory as having limited infestations of Eurasian milfoil (*Myriophyllum spicatum*). The Commissioner's designation of limited infestations, if any, may incorporate the parallel designations under Minnesota state law. The notice that the Commissioner provides to members of limited infestations designations may be the same notice provided for the same waters by the Minnesota Department of Natural Resources under state law.

Should the Commissioner fail or choose not to make any limited infestation designations required under this subsection, the limited infestation designations by the Minnesota Department of Natural Resources under state law, and the accompanying public notice of those designations, shall be deemed the Commissioner's designations for the purposes of this ordinance.

(b) The Commissioner, or his or her designee, may mark and delineate areas of infestation of Eurasian Milfoil where control is planned in water bodies identified as having limited infestations. No member shall enter an area of limited infestation of Eurasian milfoil marked or delineated by the Commissioner or by the Minnesota Department of Natural resources under state law, except:

(i) in emergency situations where property or human life is endangered;

(ii) by enforcement, emergency, resource management and other Band government personnel or their agents when performing official duties; or

(iii) for the purpose of access via the shortest and most direct route through a marked or delineated area by owners or lessees of land adjacent to marked or delineated areas who do not have other water access to their land.

(5) (a) The following species are prohibited exotic species for the purposes of this ordinance:

(i) Aquatic Plants: Eurasian milfoil (*Myriophyllum spicatum*); hydrilla (*Hydrilla verticillata*); European frog-bit (*Hydrocharis morsus-ranae*); flowering rush (*Butomus umbellatus*); any variety, hybrid, or cultivar of purple loosestrife (*Lythrum salicaria*, *Lythrum virgatum*, or any combinations); and water chestnut (*Trapa natans*).

(ii) Fish: grass carp (*Ctenopharyngodon idella*); rudd (*Scardinius erythrophthalmus*); round goby (*Neogobius melanostomus*); ruffe (*Gymnocephalus cernuus*); sea lamprey (*Petromyzon marinus*); and white perch (*Morone americana*).

(iii) Invertebrates: rusty crayfish (*Orconectes rusticus*); and zebra mussel species (all species of the genus *Dreissena*).

(iv) Mammals: Asian raccoon dog, also known as finnraccoon (*Nyctereutes procyonoides*); European rabbit (*Oryctolagus cuniculus*); and any strain of nutria (*Mycocastor coypu*).

(v) Any other species so designated by the Commissioner taking into account the likelihood of introduction of the species if it is allowed to enter or exist in the ceded territory; the likelihood that the species would naturalize in the ceded territory were it introduced; the magnitude of potential adverse impacts of the species on native species and on use of natural resources; the ability to eradicate or control the spread of the species once it is introduced in the ceded territory; and other criteria the Commissioner deems appropriate.

(b) No member shall possess, import, purchase, sell, propagate, transport, or introduce a prohibited exotic species, except:

(i) under a permit issued by the Commissioner for the purposes of disposal, control, research or education;

(ii) when being transported to the Department of Natural Resources, or another destination as the Commissioner may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;

(iii) when being transported for disposal as part of a harvest or control activity under a permit issued by or as specified by the Commissioner;

(iv) when a specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;

(v) in the form of herbaria or other preserved specimens;

(vi) when being removed from watercraft and equipment, or caught while fishing, and immediately returned to the water from which they came; or

(vii) as the Commissioner may otherwise prescribe by order.

(c) The Commissioner, his or her designees, or any warden authorized to enforce this ordinance, may seize or dispose of all specimens of prohibited exotic species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced into the ceded territory by members.

(6) Except as otherwise provided in this ordinance, pursuant to a special permit issued by the Commissioner, or as otherwise permitted by controlling law, no member shall place or introduce any exotic species within the ceded territory.

(7) No member who allows or causes the introduction of a wild animal that is an exotic species shall fail to notify the Commissioner, the Commission, or a warden authorized to enforce this ordinance within 48 hours after learning of the introduction. The member shall make every reasonable attempt to recapture or destroy the introduced animal.

(8) (a) No member shall transport aquatic macrophyte on any state forest road or any other public road except as provided in this subsection. For the purposes of this ordinance, the term "aquatic macrophyte" means a nonwoody plant, either a submerged, floating leafed, floating, or emergent plant that naturally grows in water or hydric soils.

(b) Unless otherwise prohibited by law, a member may transport aquatic macrophytes:

(i) that are duckweed in the family *Lemnaceae*;

(ii) for disposal as part of a harvest or control activity conducted under an aquatic plant management permit issued by the Commissioner or as otherwise specified by the Commissioner;

(iii) for purposes of constructing shooting or observation blinds in amounts sufficient for that purpose, provided the aquatic acrophytes are emergent and cut above the waterline;

(iv) when legally purchased or traded by or from commercial or hobbyist sources for aquarium or ornamental purposes;

(v) that are legally harvested if in a motor vehicle;

(vi) to the Department of Natural Resources, or another destination as the Commissioner may authorize, in a sealed container for purposes of identifying a species or reporting the presence of a species;

(vii) when transporting an aquatic plant harvester used in a properly authorized harvest or control activity to a suitable location for purposes of cleaning any remaining aquatic macrophytes;

(viii) that are legally harvested wild rice; or

(ix) in the form of fragments of emergent aquatic macrophytes incidentally transported in or on watercraft or decoys used for waterfowl hunting during the waterfowl season.

(9) (a) No member shall place or attempt to place into waters of the ceded territory a watercraft, trailer, or plant harvesting equipment that has aquatic macrophytes, zebra mussels, or prohibited exotic species attached. A warden authorized to enforce this ordinance may order:

(i) the removal of aquatic macrophytes or prohibited exotic species from a trailer or watercraft before it is placed into waters of the ceded territory;

(ii) confinement of the watercraft at a mooring, dock, or other location until the watercraft is removed from the water; and

(iii) removal of a watercraft from waters of the ceded territory to remove prohibited exotic species if the water has not been designated by the Commissioner as being infested with that species.

(b) No member shall fail to obey an order of a duly authorized warden to remove prohibited exotic species from any watercraft, trailer, or plant harvesting equipment.

(10) For the purposes of this section, the term "watercraft" means a contrivance used or designed for navigation on water and includes seaplanes.

### **3.08 Scientific Investigation.**

(1) The Commissioner may conduct or authorize the Commission's Biological Services Division to conduct investigations of wild animals and wild plants in order to develop scientific information relating to population, reproduction, distribution, habitat needs, and other biological data in order to advise the Band on conservation measures designed to ensure the continued ability of wild animals and wild plants to perpetuate themselves, in accordance with the provisions in the final decree in Mille Lacs Band v. State of Minnesota, No. 3-94-1226 (D. Minn.) regarding scientific investigations.

(2) The Commissioner may for scientific purposes engage in or authorize the Commission's Biological Services Division to engage in the harvest of protected wild animals or wild plants on such terms and conditions as the Commissioner deems appropriate.

(3) The Commissioner may consult the Minnesota Department of Natural Resources and appropriate Federal Agencies to facilitate coordination and data comparability of scientific investigations.

(4) The Commissioner, with the approval of a majority of the Bands, may restrict hunting, fishing and gathering by Band members in order to facilitate scientific investigations