

Chapter 268. BOATING AND RAFTING

[HISTORY: Adopted by the Legislature of the Menominee Indian Tribe as indicated in article histories. Amendments noted where applicable.]

Article I. Rafting

[Adopted 8-7-1980 by Ord. No. 80-13; amended in its entirety 6-19-2014 by Ord. No. 14-07]

§ 268-1. Authority.

This article is enacted pursuant to the authority vested in the Menominee Tribal Legislature in Article III, Section 1, and Article X, Sections 3 and 4, of the Constitution and Bylaws of the Menominee Indian Tribe of Wisconsin. The purpose of this article is for the immediate preservation of public health, welfare, peace and safety pursuant to Bylaw II, Section 2(g) of the Constitution and Bylaws of the Menominee Indian Tribe.

§ 268-2. Declaration of findings.

- A. The Wolf River is one of the most important natural resources of the Menominee Indian Tribe.
- B. In order for rafting/kayaking to benefit the entire Tribe it must be done in a manner so as to accomplish the following: protect the quality of the Wolf River environment by providing for an environmental study to be conducted by the Tribe in cooperation with a trustee of the United States beginning as soon as practicable on the impact of rafting on the quality of the Wolf River.
- C. To provide for regulation of rafting, outfitting, and related activities to assure safe operations, assure safe recreation, and to protect the environment.

§ 268-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CANOE

A light, narrow vessel with curved sides and with both ends pointed. A canoe-like vessel

with a transom may not be excluded from the definition of "canoe" if the width of the transom is less than 45% of the width of its beam or it has been designated as a canoe by the United States Coast Guard or the Menominee Indian Tribe of Wisconsin. All sections in this article that use raft/kayak shall apply to canoes; for the purpose of Article I of this chapter, canoes are interchangeable with kayaks.

INFLATABLE KAYAK

An inflatable craft rated to carry one or two passengers and will be treated within this article as a kayak.

KAYAK

A portable one- or two-person canoe-like boat, with one or two small openings in the center, propelled by a double-bladed paddle.

KAYAK WRISTBAND

See "wristband."

LIABILITY INSURANCE

Public liability insurance adequate to protect the rafting outfitter and the Tribe against risks of damages for personal injury, including death, or for damage to property which may arise pursuant to rafting operations.

LICENSEE(S)

See "outfitters."

OPERATOR(S)

See "outfitters."

OUTFITTER(S)

Any person, partnership, corporation, or other organization, or any combination thereof, duly authorized and licensed by the Menominee Indian Tribe and operating within the Menominee Indian Reservation, which for monetary profit or gain provides or rents whitewater craft or equipment for use in whitewater expeditions on any river, portion of rivers, or waters of the Reservation.

PARTICIPANT

See "rafter/kayaker."

PERSONAL FLOTATION DEVICE (PFD)

A buoyant life preserver designed to save a person from drowning by buoying up the body. Specific PFD requirements and descriptions for Article I are as described in § 268-9 B.

RAFT

An inflatable four-person flat-bottomed type of boat with a shallow draft designed to float down a river.

RAFTER/KAYAKER

The individual rafter or kayaker. All requirements of rafter/kayaker's also apply to canoers.

RAFTING/KAYAKING OUTFITTERS

See "outfitter(s)."

RAFTING LICENSE

A document granting permission to engage in the business of rafting/kayaking on the Menominee Indian Reservation.

RAFTING SEASON

May 1 through October 31.

RIVER

A natural body of flowing water of varying width contained in a channel between two banks.

TRIBALLY APPROVED TRAILS

A trail designed to bypass a part of the river where falls and/or rapids are present.

UNDERWAY

The watercraft is not at anchor, or secured to the shore, or aground.

WHITEWATER AREA

All rivers, portions of rivers or other waters of the Reservation as identified and designated as a whitewater area in § 268-5 of Article I.

WHITEWATER EXPEDITION

The act of floating, traveling or traversing, in any manner, in or on any description of watercraft or vessel, including "inner tubes," by a commercial whitewater outfitter, any river or other waters of the Reservation that contain any whitewater and/or rapids or turbulent water.

WRISTBAND

An identification wristband that utilizes a sequential numbering system, similar to those used in hospitals, to be attached to each rafter's, canoer's, and kayaker's wrist for single-use permit of rafting, kayaking and/or canoeing down the permitted sections of the Wolf River.

§ 268-4. Designated Wolf River zones.

- A. The following rivers, portions of rivers, or river waters of the Wolf River on the Menominee Indian Reservation are designated by zones.

(1) Upper zone: Northern Reservation line to Otter Slide;

(2) Lower zone: Otter Slide to Smokey Falls.

§ 268-5. Designated whitewater areas.

A. The following rivers, portions of rivers, or waters of the Menominee Indian Reservation are designated as whitewater areas.

(1) Wolf River.

(a) Gilmore's Mistake to Otter Slide.

(b) Otter Slide to Big Smokey Falls.

[1] Sullivan Falls.

[2] Evergreen Rapids.

[3] Duck's Nest.

[4] Tea Kettle or Upper Dells.

[5] Lower Dells.

[6] Big Smokey Falls.

B. Notice to rafters/kayakers. Seasonal permit vendors shall post signs notifying rafters of upcoming whitewater areas.

§ 268-6. River conditions.

A. The condition of the river and action steps shall be based on water flow taken at the Langlade gauging site. Flow rate with appropriate action steps are shown on the following table:

Flow Rate	Action Steps
400 cubic feet per second	At water flow of 400 cfs and above, all rafters shall be required to wear personal flotation devices and helmets.
600 cubic feet per second	Watch conditions: Water flow must be closely monitored for rising water levels.
700 cubic feet per second	Warning conditions: Rafters shall be warned of serious conditions. Outfitters shall stress the importance to rafters to keep life jackets and helmets on at all times. No person under the age of 18 shall be allowed to raft the designated lower zone of the Wolf River.
900 cubic feet per second	Dangerous conditions: Rafting shall not be allowed within the boundaries of the Menominee Indian Reservation.

- B. Emergency conditions: The Tribe has the right to shut down rafting, kayaking and/or canoeing on the Wolf River within exterior bounds of the Menominee Indian Reservation for the health, safety and welfare of the community, regardless of the flow rates.

§ 268-7. Commercial rafting outfitter licensing.

- A. Prohibition. No person may conduct a rafting/kayaking business on the Menominee Indian Reservation without a license from the Menominee Indian Tribe.
- B. Application. Any person wishing to conduct a rafting/kayaking business on the Menominee Indian Reservation must apply for said license on or before February 15 of the license year. Said application shall be made to the Licensing and Permit Department of the Menominee Indian Tribe.
- C. Nontransferability of license. A license is issued to an eligible tribal member and it is not transferable to any other person.
- D. Eligibility. In order to be eligible to receive a rafting/kayaking license, the applicant must show the following:
- (1) That he is an enrolled member of the Menominee Indian Tribe.
 - (2) That the Menominee Tribal Tax Commissioner certifies that he has no outstanding taxes or fees due the Menominee Indian Tribe.
 - (3) That he is not currently, and has not been during the last year, intentionally in violation of any provision of this article.
 - (4) That he has the means to conduct a successful rafting/kayaking business on the Menominee Indian Reservation.
 - (5) Payment of a deposit, the amount of which shall be established by the Licensing and Permit Department and approved by a motion of the Tribal Legislature. Upon legislative approval, changes made to the deposit amount shall be posted for five business days before coming in to affect.
 - (6) Proof of liability insurance that complies with requirements of the Menominee Tribal Insurance Department.
- E. License fee. License fees shall be established by the Licensing and Permit Department and approved by a motion of the Tribal Legislature. License fees shall be posted for five business days before they shall become effective.
- F. Issuance of rafting/kayaking licenses.
- (1) The Licensing and Permit Department shall issue no more than two rafting/kayaking

outfitter licenses per year;

- (2) The licenses shall be issued on or before April 30 of the current year and shall be valid for the rafting/kayaking season of the current year;
 - (3) Licenses shall be issued to those persons who meet all the requirements of Subsection **D** above. If there are more than two eligible applicants, the decision as to who will receive the rafting/kayaking licenses shall be made by the Menominee Tribal Legislature. The Legislature shall base its decision on factors including, but not limited to, the following:
 - (a) Ability of applicant to conduct rafting/kayaking business.
 - (b) Applicant's compliance history of running business.
- G. Notification. Any applicant who applies for a rafting/kayaking license but does not receive one shall be notified immediately upon the decision to deny the application and shall have his/her deposit returned.
- H. Property right. A rafting/kayaking license shall not be considered a property interest, and receipt of a rafting/kayaking license creates no right or expectation that other rafting/kayaking licenses shall be granted in the future.

§ 268-8. Daily use limits.

- A. Total daily use limits for commercial rafting outfitters shall be established by the Environmental Services Department in an annual river report. The department shall determine the appropriate daily use limit based upon the following criteria:
- (1) The sound recreational, ecological, and sovereign use of the Tribe's natural resources.
- B. Changes to daily use limits. Any changes to daily river use limits for commercial rafting outfitters from the report described above, and/or other means, shall be approved by motion of the Tribal Legislature. New daily use limits shall be posted for five business days before they shall become effective.

§ 268-9. Rafting/kayak outfitters.

The following regulations apply to rafting/kayak outfitters:

- A. The rafting/kayak outfitter shall:
- (1) Allow only nonalcoholic beverages in nondisposable Thermos®-type containers in launched rafts/kayaks.

- (2) Post in an area where rafter/kayakers can plainly see § **268-11** of this article.
- (3) Provide each rafter/kayaker with the regulations contained in § **268-11** of this article.
- (4) Show proof of ownership of his rafting/kayaking equipment or proof of leasing his rafting/kayaking equipment for the entire season.
- (5) Launch no more than the daily use limit of 250 rafts per outfitter on the Wolf River at any one time. The daily use limit may change according to § **268-8**.
- (6) Launch rafts/kayaks and retrieve rafts/kayaks only from places designated in the license.
- (7) Identify the outfitter's rafts with the rafting outfitter's name, as it appears on his permit, and a unique identification number obtained from the Tribe for each raft. These markings shall be of a size and nature so as to be clearly visible to a person with normal vision from the bank of the river. Identification of rafts/kayaks shall be finalized on or before May 1, opening day of the season.
- (8) Provide a rafter/kayaker with orientation. The following topics must be explained during orientation prior to embarking on a regulated trip:
 - (a) The conditions of the weather, river, terrain, equipment, trable, housing, and vessels that rafters/kayakers may expect to encounter;
 - (b) The proper fit, wearing, and use of personal floatation devices and helmets;
 - (c) Passenger riding and position in vessel;
 - (d) Safety procedures for swimming through river rapids and getting back into the vessel;
 - (e) Instructions on what to do in the event of a vessel accident;
 - (f) Sanitation and litter prevention;
 - (g) Jurisdiction of the Menominee Indian Tribe of Wisconsin; and
 - (h) Warn all rafters/kayakers that whitewater rafting/kayaking is inherently dangerous and that they proceed at their own risk.
- (9) Develop an exiting point above Smokey Falls to allow rafters/kayakers to exit the river before going over the falls.
- (10) Post a sign within a reasonable distance above Smokey Falls warning rafters/kayakers of the falls ahead and informing them of the alternate takeout point above the falls.
- (11) Post signs at all launch points stating what the water conditions are on the river.

- (12) Check the condition of the river based on water flow taken at the Langlade gauging site and follow the appropriate action steps in § **268-6**.
- (13) Ensure that any trash disposed of along raft/kayak trip routes is collected and removed at least once a week.
- (14) Ensure each rafter receives and secures a wristband before the rafting trip is underway. The specific identification number from each wristband must be recorded for each rafter on the trip logs required in § **268-9F**.
- B. Personal flotation devices (PFD). All river outfitter(s) shall ensure that each commercial participant is provided with a personal flotation device (PFD) that is in good and serviceable condition and of the proper size for the intended wearer and is:
 - (1) U.S. Coast Guard approved Type I, Type III, or Type V - whitewater noninflatable, except that:
 - (a) If the person weighs 50 pounds or less, a Type II - noninflatable personal flotation device may be worn in lieu of a Type I, Type III, or Type V- whitewater noninflatable device, provided it is a vest style designed with a crotch strap and an additional flotation collar.
 - (2) All Type III personal flotation devices must have a minimum of two adjustable straps on the side, one adjustable waist strap and adjustable shoulder straps, capable of retaining the wearer in swift water conditions. Type III personal flotation devices must be intended for paddling or kayak use by the U.S. Coast Guard and labeled accordingly.
- C. Helmets. All river outfitter(s) shall ensure that each commercial participant is provided with a helmet rated for water use that is in good and serviceable condition and of the proper size for the intended wearer.
- D. Rafts/kayaks may be launched/exited as follows:
 - (1) Launch times:
 - (a) May 1 to the weekend prior to Memorial Day observed: 10:00 a.m.
 - (b) Memorial Day observed weekend to October 31: 6:00 a.m.
 - (2) Exit time: 8:00 p.m. throughout season.
- E. Prohibitions.
 - (1) Rafting/kayaking outfitters are prohibited from entering into subcontracts, contracts, agreements, understandings, etc., either orally or in writing, to allow unlicensed rafting/kayaking outfitters to launch/exit rafts/kayaks on tribal property or their own property held in fee simple within the exterior boundaries of the

Menominee Reservation.

- (2) Rafting/kayaking outfitters are prohibited from selling alcohol.

F. Trip log records.

- (1) Outfitters shall maintain an accurate and complete trip log for every regulated trip.

- (a) The trip log shall include:

- [1] Name of assigned trip leader;

- [2] The trip departure and completion dates and times;

- [3] The location of vessel launch and take-out;

- [4] River data, including water flow rate and warning level.

- (b) Outfitter(s) shall maintain the name and the rafter's corresponding identification number from the wristband, address, and telephone number for every passenger on a regulated trip, except in the case of groups. For groups, the river outfitter shall maintain, at a minimum, the name of each person in the group and their corresponding identification number from the wristband, and the address and telephone number for a contact person for the group. Release forms and booking lists will suffice so long as the required information is present.

- (2) Records shall be maintained for a period of two years. These required records shall be maintained at the outfitter's designated place of business. The river outfitter, or any employee having access to the trip logs and other required records, shall provide such trip logs and records at all reasonable times to any law enforcement officer enforcing the provisions of this article, upon request.

G. Injury reports.

- (1) Rafting outfitters shall keep a log of all injury reports. Outfitters are required to create an injury report if a customer reports an injury to a licensee or the licensee is aware of an injury or accident that requires medical or emergency services and the injury or accident occurs from the put-in to take-out. The licensee shall maintain injury reports for a period of five years. Injury reports and logs shall be made available upon request to the Tribal Police Department, Conservation Department, and/or Environmental Services Department. The form shall include the name, address, and age of the person injured, the nature of the injury, the time, water flow and place of the accident and the circumstances of the accident.

H. Liability.

- (1) General language.

(a) Liability waivers must include:

- [1] Record of signing waiver.
- [2] Acknowledgement of § **268-9** regulations and jurisdiction of the Menominee Indian Tribe of Wisconsin.
- [3] A Menominee Indian Tribe of Wisconsin sovereign immunity clause that shall include this language: "Nothing in this waiver shall be construed to constitute an express or implied waiver of the Menominee Indian Tribe of Wisconsin's sovereign immunity."
- [4] Consent to tribal jurisdiction.

§ 268-10. Kayak/canoe permits.

Single-use permit. All persons wishing to kayak and/or canoe within the boundaries of the Menominee Indian Reservation are required to purchase single-use kayak permits except for Menominee Tribal members. The Tribe shall issue single-use permits through its Licensing and Permit Department. The permit fee shall be established by the Licensing and Permit Department and approved by a motion of the Tribal Legislature. Permits shall be posted for five business days before they shall become effective. Permits shall be in the form of an identification wristband, similar to those used in hospitals, to be attached to each kayaker's wrist, originating from the Licensing and Permit Department. Permits may be purchased directly from the Licensing and Permit Department or through licensed rafting/kayaking outfitters, and the identification number from the wristband must be recorded with the kayaker's/canoer's name.

§ 268-11. Rafters/kayakers/canoers.

A. Leaving rafts/kayaks.

- (1) No rafter/kayaker shall leave his/her raft/kayak for the duration of the rafting/kayaking trip with the following exceptions:
 - (a) Emergency purposes.
 - (b) At the tribally approved concession stands.
 - (c) Tribally approved trails to avoid river rapids.
- (2) All requirements of § **268-11A(1)(a)** through **(c)** shall also apply to nonenrolled canoers.

B. No rafter/kayaker/canoer shall have in his/her possession, or on his/her person, or on board a raft/kayak/canoe, at any time any:

- (1) Alcoholic beverages or controlled substances. Violators of this subsection shall be fined according to § **268-12C(1)** and applicable penalties.
 - (2) Disposable liquid/food containers such as plastic bottles, juice/milk jugs, styrofoam coolers. Violators of this subsection shall be fined according to § **268-12C**.
 - (3) Any type of glass container. Violators of this subsection shall be fined according to § **268-12C**.
- C. All raft/kayak/canoe trips are to be only (one way) down river; turning around to retake a rapids or falls is strictly prohibited. Rafters/Kayakers found turning around to retake rapids or falls shall be fined according to § **268-12C** of this article.
 - D. While underway, each rafter/kayaker, except as required by § **268-11F**, shall wear a securely fastened vest-type personal flotation device (PFD) at all times when the water flow is 400 cfs or above. All personal flotation devices shall be securely fastened according to manufacturer guidelines. Rafters/Kayakers without helmets shall be fined according to § **268-12C** of this article.
 - E. While underway, each rafter/kayaker, except as required by § **268-11F**, shall wear a securely fastened helmet at all times. All helmets shall be securely fastened according to manufacturer guidelines. Rafters/Kayakers without helmets shall be fined according to § **268-12C** of this article.
 - F. While underway, all rafter/kayakers age 16 and below shall be required to wear a securely fastened vest-type personal flotation device and helmet at all times. Violators of this subsection shall be fined according to § **268-12C**.
 - G. Tribally issued wristbands must be affixed to each kayaker's/canoer's wrist. It will be the responsibility of the kayaker/canoer to keep the wristband on. Anyone (nonmember) without wristbands will be fined according to § **268-12C** of this article and the trip will be terminated immediately and equipment confiscated. Equipment can only be returned after the ticket has been issued and paid in full to the appropriate authorities or dismissed by court action. It is not the outfitters' responsibility to keep the bands on the kayakers.
 - H. Rafters shall wear the issued wristbands from outfitters affixed to the wrist. It will be the responsibility of the rafter to keep the wristband on.
 - I. Rafters/Kayakers/canoers are subject to the civil jurisdiction of the Menominee Tribe.

§ 268-12. Violations and penalties.

- A. Unlicensed rafting/kayaking operations. Any person conducting a rafting/kayaking operation without a license issued pursuant to this article shall forfeit \$1,000 for each day said rafting/kayaking operation operates without a license.

- B. Violation of regulations by rafting/kayaking outfitters. Any rafting/kayaking outfitter who violates a regulation contained in this article shall be fined in the following manner:
- (1) First offense: forfeiture of \$150.
 - (2) Second offense: forfeiture of \$250.
 - (3) Third offense: forfeiture of \$500.
 - (4) Fourth offense: forfeiture of \$1,000.
 - (5) Fifth offense: forfeiture of \$1,000 and suspension of rafting/kayaking license.
 - (6) Standard court costs determined by the court shall be applied to all violations.
- C. Violation of regulations by rafters/kayakers/canoers. Violation of this article by any rafter/kayaker/canoer shall result in the following:
- (1) Forfeiture of \$150 per violation, except for the following violations:
 - (a) Fine for violation(s) of the following section(s): § **268-11B(1)** and **G**: \$200.
 - (b) Fine for violation(s) of the following section(s): § **268-11D** and **E**: \$250.
 - (c) Fine for violation(s) of the following section(s): § **268-11F**, when the rafters/kayakers are between the ages of 13 and 16: \$350.
 - (d) Fine for violation(s) of the following section(s): § **268-11F**, when the rafters/kayakers are under the age of 13: \$450.
 - (e) Fine for violations(s) of § **268-11B(1)** when rafters/kayakers under the age of 18 are present in the raft: \$500.
 - (f) For a third and subsequent violations, the designated fines shall double.
 - (2) Violations of § **268-11A**, **B(1)**, and **G**, shall result in the immediate termination of the rafting/kayaking trip.
 - (3) Transportation penalty. A transportation penalty shall be added to all citation(s) resulting in a terminated trip where the rafters/kayakers had to use Tribal law enforcement vehicles to be returned to their vehicle(s). Transportation cost shall be at a rate of \$0.75 per mile, per vehicle and/or per trip, round trip to be calculated from the Tribal Law Enforcement Center at W3293 Tribal Office Loop Road to where the regulated trip was terminated and then from the termination spot to the rafter(s)/kayaker(s) vehicle.
 - (4) Standard court costs determined by the court shall be applied to all violations.

§ 268-13. Enforcement.

- A. The Tribe shall have all powers necessary and proper to enforce this chapter, permit and license terms, laws, ordinances, and regulations through its law enforcement officers.
- B. Persons authorized to enforce. Menominee Tribal police officers and Menominee Tribal conservation wardens are authorized to enforce provisions of this chapter by the Constitution and Bylaws of the Menominee Nation and Menominee Tribal Code, Chapter **132**, Law Enforcement, Article **I**, § **132-3**, Authority of police officers and Article **VII**, Empowerment of Conservation Wardens to Enforce Tribal Laws.
- C. All forfeitures and/or suspensions required by § **268-12** of this article shall be paid upon order of a Tribal Judge after issuance of a citation and a hearing on the matter.
- D. All forfeitures shall be designated to be used in the monitoring of the river and enforcement of this article to be split, 50% to the Tribal Conservation Department and 50% to the Tribal Police Department.

§ 268-14. Effect on other legislation; severability and effective date.

- A. This article shall act to amend the Code of the Menominee Indian Tribe of Wisconsin, Chapter **268**, Boating and Rafting, Article **I**, Rafting, but this shall not act as a bar to the Menominee Indian Tribe from collecting any and all fees due under the previous article.
- B. If any portion of this article is found to be unconstitutional or in violation of applicable federal law, the remainder of this article shall remain in effect.
- C. This article shall take effect upon final approval by the Menominee Tribal Legislature.

§ 268-15. Indemnification.

Any person issued a license under this article shall indemnify and hold harmless the Menominee Indian Tribe of Wisconsin against all loss, cost, or damage on account of any injury to persons or property occurring as a result of the rafting operations on the Wolf River within the exterior boundaries of the Menominee Indian Reservation.

Article II. Boating

[Adopted 9-13-2001 by Ord. No. 01-16; amended in its entirety 6-19-2014 by Ord. No. 14-07]

§ 268-16. Purpose and authority.

The purpose of this article is for the immediate preservation of public health, welfare, peace and safety pursuant to Bylaw II, Section 2(g) of the Constitution and Bylaws of the Menominee Indian Tribe. The specific danger to public health and safety that this article is intended to

abate is the reckless use of motorboats and personal watercraft on the waters of the Menominee Reservation.

§ 268-17. Use of boats and personal watercraft.

The following rules shall govern the use of boats and personal watercraft on the Menominee Reservation:

A. Right-of-way.

- (1) When two boats are approaching each other "head and head," or so nearly so as to involve risk of collision, each boat shall bear to the right and pass the other boat on its left side.
- (2) When two boats are approaching each other obliquely or at right angles, the boat, which has the other on her right, shall yield the right-of-way to the other. "Right" means from dead ahead, clockwise to two points abaft the starboard beam.
- (3) When a motorboat and a boat propelled entirely by wind or muscular power are proceeding in such a direction as to involve risk of collision, the motorboat shall yield the right-of-way to the other boat.
- (4) A boat may overtake and pass another boat on either side if it can be done with safety, but the boat doing the overtaking shall yield the right-of-way to the boat being overtaken, notwithstanding any other rules in this section to the contrary.
- (5) A boat granted the right-of-way by this section shall maintain her course and speed, unless to do so would probably result in a collision.

B. Speed restrictions.

- (1) No person shall operate a motorboat at a speed greater than is reasonable and prudent under the conditions and having regard for the actual and potential hazards then existing. The speed of a motorboat shall be so controlled as to avoid colliding with any object lawfully in or on the water or with any person, boat or other conveyance in or on the water in compliance with legal requirements and exercising due care.
- (2) In addition to complying with Subsection **B(1)**, no person may operate a motorboat at a speed in excess of the posted notice as established by regulatory markers.
- (3) No person may operate a motorboat within 100 feet of any dock, raft, pier or buoyed restricted area on any lake at a speed in excess of slow-no-wake speed.
- (4) No person may operate a personal watercraft at a speed in excess of slow-no-wake speed within 100 feet of any other boat except as otherwise stated by this article.

C. Prohibited operation.

- (1) No person may operate a gas- or diesel-powered motor on any lake, or river, within the exterior boundaries of the Menominee Indian Reservation except on the following lakes: S.E. Bass Lake, Upper Bass Lake, LaMotte Lake, Long Lake, Moshawquit Lake, and Legend Lake.
- (2) Gas-powered motors may be operated on all Reservation lakes or rivers for fishery management, environmental/water quality testing, law enforcement, and emergency search-and-rescue purposes.
- (3) No person may operate or use any boat or manipulate any aquaplane, water skis, or similar device upon the waters of the Menominee Reservation in a careless, negligent or reckless manner so as to endanger that person's life, property or person or another life, property or person.
- (4) No person in charge or control of a boat shall authorize or knowingly permit the boat to be operated by any person who by reason of physical or mental disability is incapable of operating such boat under the prevailing circumstances.
- (5) No person under the age of 10 years may operate a motorboat. Persons at least 10 and less than 12 years of age may operate a motorboat only if they are accompanied in the boat by either a parent or guardian. Persons at least 12 and less than 16 years of age may operate a motor of any horsepower permitted under this article, but only if they are accompanied by either a parent or guardian or a person at least 18 years of age designated by a parent or guardian.
- (6) No person under the age of 12 years may operate, lease or rent a personal watercraft.
- (7) No person who is at least 12 years of age but less than 16 years of age may rent or lease a personal watercraft.
- (8) No person shall operate a motorboat so as to approach or pass another boat in such a manner as to create a hazardous wake or wash.
- (9) Any outfitter of a motorboat is liable for any damage caused to the person or property of another by the wake or wash from such motorboat, unless the negligence of such other person was the primary cause of the damage.
- (10) No person may operate a personal watercraft while facing backwards.
- (11) No person may operate a motorboat repeatedly in a circuitous course around any boat, or around any person who is swimming, if such circuitous course is within 200 feet of such boat or swimmer, nor shall any boat or water skier operate or approach closer than 100 feet to any skin diver's flag or any swimmer unless the boat is part of the skin diving operation or is accompanying the swimmer, or unless physical

conditions make compliance impossible.

- (12) A person may use a personal watercraft to tow a stranded or disabled boat if, during towing, the speed of the personal watercraft does not exceed slow-nowake.
- (13) No person operating a motorboat shall allow any person to ride or sit on the gunwales, top of seat backs or side or on the decking over the bow of the boat.
- (14) Use of boat while intoxicated. No person shall:
 - (a) Operate a boat while under the influence of any intoxicant.
 - (b) Allow another person to operate a boat who is under the influence of any intoxicant.

§ 268-18. Violations and penalties.

- A. Any person who violates the rules set forth in § **268-17** of this article shall forfeit not less than \$100 nor more than \$500, except as required below in § **268-18B**.
- B. Any person who violates the rules set forth in § **268-17** of this article a second or subsequent time shall forfeit not less than \$500 nor more than \$5,000. Violators may forfeit watercraft.

§ 268-19. Enforcement.

- A. The Tribe shall have all powers necessary and proper to enforce this article through its law enforcement officers.
- B. Persons authorized to enforce. Menominee Tribal police officers and Menominee Tribal conservation wardens are authorized to enforce provisions of this article by the Constitution and Bylaws of the Menominee Nation and Menominee Tribal Code, Chapter **132**, Law Enforcement, Article **I**, § **132-3**, Authority of police officers and Article **VII**, Empowerment of Conservation Wardens to Enforce Tribal Laws.
- C. All forfeitures and/or suspensions required by § **268-18** of this article shall be paid upon entering of judgment of a Tribal Judge.

§ 268-20. Effect on other legislation; severability and effective date.

- A. If any portion of this article is found to be unconstitutional or in violation of applicable federal law, the remainder of this article shall remain in effect.
- B. This article shall take effect upon final approval by the Menominee Tribal Legislature.

