

WAGANAKISING ODAWAK STATUTE I99700I

UNIFORM CONSERVATION CODE
OF THE
ODAWA/OTTAWA AND CHIPPEWA
OF NORTHERN MICHIGAN

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WAGANAKISING ODAWAK STATUTE 1997001

UNIFORM CONSERVATION CODE OF THE ODAWA/OTTAWA AND CHIPPEWA OF NORTHERN MICHIGAN

Preamble

The Grand Traverse Band of Ottawa and Chippewa Indians, the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians (Tribes) are all parties to the Treaty of Washington of March 28, 1836, 7 Stat. 491. In that Treaty the Tribes reserved the right to hunt, fish and gather on the ceded lands and waters. The individual Tribes adopt this uniform Code to exercise their inherent sovereign right to regulate the reserved treaty rights. This uniform Code enables the Tribes to coordinate their efforts to preserve and conserve the resources while promoting public safety. The purpose of these regulations is to preserve and conserve the natural resources on and in the lands and waters ceded by the Ottawa and Chippewa in the Treaty of 1836 for the perpetual use, benefit, and enjoyment of the members of the Tribes. These regulations do not apply to the commercial or subsistence use or regulation of those uses on the Treaty-ceded waters of the Great Lakes, or on Treaty-ceded waters connecting the Great Lakes. These regulations do not apply on lands or waters within Indian Country unless a Tribe also adopts this as an on-reservation Code. Provided, the individual Tribes may adopt their own additional regulations to supplement this uniform Code.

SECTION 1. DEFINITIONS

1.01. Ceded Territory- All lands and waters ceded in the 1836 Treaty as described in Article First, that were not reserved in Articles Second and Third of the 1836 Treaty, Article One of the 1855 Treaty, or are not now otherwise within Indian Country, as set forth below:

Beginning at the mouth of Grand River of Lake Michigan on the north bank thereof, and following up the same to the line called for in the first article of the Treaty of Chicago on the 29th of August, 1821, thence, in a direct line, to the head of Thunderbay River, thence with the line established by the Treaty of Saginaw on the 24th of September 1819, to the mouth of said river, thence northeast to the boundary line in Lake Huron between the United States and the British Providence of Upper Canada, thence northwestwardly, following the said line, as established by the commissioners acting under the Treaty of Ghent, through the straits, and river St. Mary's, to a point in Lake Superior north of the mouth of *Gitchy Seebing*, or *Chocolate* river, thence south to the mouth of said river and up its channel to the source thereof, thence, in a direct line to the head of the *Skonawba* river of Green bay, thence down the south bank of said river to its mouth, thence, in a direct line, through the ship channel into Green bay, to the outer part thereof, thence south to a point in Lake Michigan west of the north cape, or entrance of Grand river, and thence east to the place of beginning, at the cape aforesaid, comprehending all the lands and islands, within these limits, not hereinafter reserved.

1.02. Tribe or Tribes - The Little Traverse Bay Bands of Odawa Indians, the Little River Band of Ottawa Indians and the Grand Traverse Band of Ottawa and Chippewa Indians.

1.03. Tribal Members - Enrolled members of one of the Tribes.

1.04. Tribal Court - The Court of one of the Tribes.

1.05. Tribal License - A gathering, hunting, trapping, or fishing License issued by a Tribe to a Tribal member which is valid and current.

1.06. Personal Use - The use of natural resources for direct personal or family consumption by Tribal members as food, medicine, shelter, fuel, clothing, tools, or transportation; for making or selling handicraft articles including the commercial sale of such articles; or for barter. For purposes of this section, the term:

A. "Family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis;

B. "Handicraft articles" means articles produced, decorated or fashioned in the exercise of traditional Indian handicrafts such as carving, weaving, beading, pottery,

drawing or painting, without the use of mass copying devices; and

C. "Barter" means the sale or exchange of natural resources or parts thereof for personal uses between Tribal members.

1.07. Commercial Purposes - The harvesting of a natural resource in which the resource harvested, or any portion thereof, is sold, but shall not include harvesting of a natural resource for personal use.

1.08. Endangered Species - Any species of wildlife or plant designated as rare or endangered by the Tribal Council, by the State of Michigan, or the United States Department of the Interior pursuant to 50 CFR Part 17.

1.09. Treaty - The March 28, 1836 Treaty of Washington with the Ottawas, 7 Stat. 491.

1.10. Fishing Activity - Fishing for, catching, taking, or attempting to fish for, catch or take, any species of fish from treaty ceded waters, including all related activities which occur in or on the water, or immediately adjacent to the waters edge and in the process of loading or unloading fish, nets, or related gear, in or from a boat or vehicle.

1.11. Targeting - Fishing, hunting, trapping, or gathering activity which has the effect of catching or taking a specific species or several species of fish, wildlife, or plants.

1.12. Enforcement Officer - Any Tribal Enforcement Officer authorized by Tribal law to enforce Tribal conservation regulations, or federal enforcement agents, including Special Agent of the U.S. Fish and Wildlife Service, or other persons deputized by the Tribal Council to enforce these regulations.

1.13. Regulations - These regulations including any subsequent amendments to these regulations and any separate Tribal treaty regulations enacted by a Tribe.

1.14. Game Fish - Brook trout, lake trout, splake, brown trout, rainbow (steelhead) trout, coho salmon, chinook salmon, Atlantic salmon, largemouth bass, smallmouth bass, rock bass, walleye, sauger, northern pike, muskellunge, tiger muskellunge, sturgeon, bluegill, sunfish, crappie, perch, lake whitefish, and round whitefish (menominee), and any other species of fish now or in the future present in the Ceded Territory which may be taken for food or sport.

1.15. Bait fish - non-game fish used for catching other fish.

1.16. *Wild animals* - all creatures, not human, wild by nature, endowed with sensation, and power of voluntary motion, which includes quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans, insects, and mollusks.

1.17. *Game* - small game and big game.

1.18. *Small game* - Ruffed grouse (partridge), woodcock, mourning dove, ring-neck pheasant, cottontail rabbit, snowshoe hare, grey squirrel, black squirrel, fox squirrel, red squirrel, quail, woodchuck, porcupine, sharp tail grouse and crow.

1.19. *Big game* - White-tail deer, black bear, wild turkey, and elk.

1.20. *Fur bearer* - Fur bearing animals including coyote, red fox, gray fox, bobcat, beaver, otter, muskrat, mink, weasel, skunk, raccoon, badger, and opossum.

1.21. *Firearm* - A weapon from which dangerous projectiles may be propelled by use of explosives, gas, or air as a means of propulsion.

1.22. *Bow* - A weapon constructed from wood, plastic, metal, or other material with a cord connecting the two ends when bent or strung, and by means of which an arrow is propelled when drawn and released by hand.

1.23. *Slingshot* - A "Y" shaped device with an elastic strip at the prongs, or one strip of stretchable material with a pocket on one end, used for projecting stones or other objects,

1.24. *Transport or Transportation* - Carrying or moving by any vehicle or vessel, carrying or moving fish, game or plants on foot, causing to be carried or moved or attempting to do so, from one tribe's jurisdiction to another tribe's traditional territory, or within the jurisdiction of a fore-mentioned tribe.

1.25. *Safety Zone* - Any area within 150 yards (450 feet) of any occupied commercial structure, public structure, Dwelling house, residence, cabin, camp, cottage, barn, or other building used in connection therewith.

1.26. *Cased or encased* - Storage of a firearm or bow in any device or case made to contain a firearm or bow so that no portion is exposed.

1.27. *Migratory birds* - Those birds included in the terms of the convention between the United States and any other country for the protection of migratory birds and for which open seasons are prescribed in these regulations, including ducks, geese, swans, doves,

pigeons, rails, coots, gallinules, woodcock and snipe.

1.28. Amphibians and Reptiles - Bull frogs, green frogs, salamanders, snapping turtles and soft shelled turtles.

SECTION 2. TERRITORIAL JURISDICTION

2.01. This Code shall govern all treaty hunting, fishing, trapping and gathering activities of Tribal members on lands and waters within the Ceded Territory. In addition, this Code may be adopted by a Tribe as an on-reservation code to govern activities within Indian Country.

2.02. Open Areas. The tribal government of the Little Traverse Bay Bands of Odawa Indians authorizes its tribal membership to hunt, trap, fish and gather within the Ceded Territory and pursuant to the regulations contained in this Code, only on the following lands and waters:

- 1) Lands and waters open to public hunting, trapping, fishing and gathering.
- 2) Tribal lands which are open to hunting, trapping, fishing and gathering by Tribal members; and
- 3) Private lands including without limitation lands held by non-Tribal members, lands held directly by Tribal members, lands held by Tribal members subject to restrictions on alienation and lands held by the United States in trust for Tribal members, but only with permission from the owner (or restricted fee or beneficial owner), occupant or lessee.

SECTION 3. TRIBAL LICENSE; EXCEPTION

3.01. Any Tribal member twelve (12) years of age or older, who hunts, traps, or fishes within the Ceded Territory, while having under his/her control or immediate possession any firearm, bow and arrow, slingshot, trapping apparatus, or any other device capable of killing or restraining fur bearers or game, shall have in his or her possession a valid and current Tribal License. Any Tribal member twelve (12) years of age or older who fishes or attempts to take any fish, reptiles or amphibians while having under his/her control or in

his/her immediate possession any pole, reel, tip-up hand line, trap, seine, dip net or spear, shall have in his or her possession a valid and current Tribal License.

3.02. The License provided for in Section 3.01 shall be required to take transport, or possess any fish, games, furs, plants, hides, amphibians or reptiles, or auxiliary parts thereof within the Ceded Territory and for the purpose of possessing or using firearms, bows, or trapping devices in the course thereof, provided however, that nothing herein contained shall be construed to allow the violation of any other provisions of the Tribal Code relating to the possession or use of any regulated gear.

3.03. No Tribal member under twelve (12) years of age shall be required to possess a Tribal License to fish, take reptiles or amphibians, or gather vegetation for personal use or use by his immediate family, however, those persons shall be required to follow all applicable Tribal regulations.

3.04. No Tribal member less than twelve (12) years of age shall be allowed to possess a Tribal License to hunt. Any Tribal member under (12) years of age may be issued a License to trap upon application signed by a parent or guardian provided that the member under 12 may not be authorized or allowed to have a firearm in his/her possession while trapping.

3.05. A Tribal Member must be at least fourteen (14) years of age to hunt big game with a firearm.

3.06. Any Tribal member who applies for a Tribal License to hunt any small game, big game, or fur bearer shall either produce a previous License to hunt or trap from a Tribe or other lawful issuing agent within the State of Michigan or have successfully passed a recognized Hunters Safety Course.

3.07. Any Tribal member under sixteen (16) years of age, while hunting with a firearm, shall be accompanied by an adult who shall have in possession a valid Tribal or state License.

3.08. In addition to the Tribal license required by this section, Tribal members will be required to obtain annual harvest tags in order to hunt or trap certain species. The harvest tags must be completely filled out and affixed to the animal when transporting the game.

A. Annual harvest tags must be obtained from the Tribe in order to hunt deer, bear or wild turkey.

B. Annual harvest tags must be obtained from the Tribe in order to trap otter, badger and Bobcat.

3.09. In addition to the Tribal license required by this section, Tribal members may also be required to obtain and carry in his or her possession, a valid and current Special Use Permit authorizing such member to hunt, trap, fish or gather.

SECTION 4. HUNTING AND TRAPPING; GENERAL PROVISIONS

It shall be unlawful for any Tribal member to engage in the sale of the flesh of game for commercial purposes only, except as provided for in section 1.06.

4.02. Fur bearers, big game, or small game lawfully taken by licensed Tribal members may be transported within or outside of the Ceded Territory provided that the member shall have a valid and current Tribal License in possession. The transported game must be tagged with a harvest tag containing all necessary information requested.

4.03. Shooting hours are one half hour before sunrise to sunset Eastern Standard Time (E.S.T.) including migratory birds. Fox, raccoon, and coyote may be hunted after sunset with use of dogs, or game call and artificial lights.

4.04. It shall be unlawful to hunt or pursue any fur bearer, small game, waterfowl, or big game with automobile, motorcycle, ORV, airplane, snowmobile, motorboat, or any other motorized or wind powered vehicle or boat.

4.05. No fur bearer, waterfowl, small game, or big game may be lawfully taken by use of explosive, drugs, poisons, medicated bait, or other deleterious substances.

4.06. It shall be unlawful to trap or snare big game animals.

4.07. It shall be unlawful to shoot fur bearers, small, or big game while they are in the water.

4.08. Traps used for harvesting fur bearers shall be either leg-hold, box type, or body gripping (conibear) type. It shall be unlawful to use snares except while trapping beaver, otter, or muskrat in the riparian corridor or submerged in streams or lakes.

4.09. All traps set shall be clearly marked with the Tribal License Number and name of the person who set the trap. All traps must be attended at least every 24 hours.

4.10. All bobcat, otter and badger taken by trap, and all hides, pelts, and furs thereof, shall be clearly marked with the Tribal License Number and the name of the person to whom it belongs within seventy two (72) hours of being taken.

4.11. It shall be lawful for Tribal Licensees to possess, sell, or use for barter, or transport any hides, furs, or pelts of fur bearers, big game, or small game lawfully taken, including the sale of the flesh of beaver, raccoon, and muskrat.

4.12. All hides, furs, or pelts of fur bearers either shot or trapped shall be presented to a Tribal Enforcement Officer for inspection and registration before they are shipped by common carrier, transported outside the Ceded Territory, or offered for sale or barter.

4.13. All Federal laws and regulations regarding the identification, sale, and transportation of hides, furs, or pelts of any fur bearer apply to identification, sale or transportation under this Code.

4.14. It shall be unlawful to transport firearms in any motorized vehicle within the Ceded Territory unless they are unloaded and encased or unloaded in a trunk not accessible from the driver and passenger compartment of the vehicle. Bows must be unstrung or encased while being transported in a motorized vehicle. Muzzleloaders with caps removed or pan empty are unloaded.

4.15. It shall be unlawful to discharge any firearm, arrow, or projectile from a motorized vehicle. Provided, however, that it is lawful to shoot from a motorized boat as long as the motor is not running and forward momentum has ceased, except for forward motion caused by the water current.

4.16. It shall be lawful to possess, in a humane way during trapping season, one coyote and two fox for the purpose of urine and droppings collection for trapping providing at least one member of the immediate family has a valid Tribal trapping license.

4.17 *Seasons and Bag/Harvest Limits.* The seasons and bag/harvest limits for taking small game, big game, fur bearers, and turkeys, and for trapping fur bearers specified in Section 1 shall be as determined by Tribal regulations.

SECTION 5. HUNTING RESTRICTIONS

5.01. No Tribal Member shall use in hunting, pursuing, or killing a wild animal, or to be in possession of in an area frequented by wild animals, any auto-loading or semi-automatic shotgun or rifle other than .22 caliber rim fire, capable of holding more than six (6) shells in both the chamber or magazine combined, or use cartridges containing either tracer or exploding bullet.

5.02. No Tribal Member shall use, or be in possession of, a device or apparatus known as a silencer.

5.03. Tribal Members may use a bow and arrow to hunt deer, small game, fur bearers, or bear from a tree or portable raised platform except from November 15 through November 30.

5.04. Tribal members may hunt from a portable raised platform or tree with game call for purpose of taking fox and coyote, except November 15 through November 30.

5.05. Unless otherwise specified in this Code or special Tribal regulations, no Tribal Member shall make use of artificial light, cage, net, trap, pit, pitfall, deadfall, snare, drug, poison, chemical, fire, smoke, gas, explosive, or mechanical device other than firearm or bow and arrow for the purpose of harvesting or killing big game or small game animals.

5.06. It shall be unlawful to set or use fire to drive wild animals or to attempt to take wild animals.

5.07. A Tribal Member may use salt and bait to hunt for bear or deer, provided no drugs or poisons are used.

5.08. Any firearm used in hunting big game other than wild turkey shall be a center fire rifle of .223 caliber or larger, muzzle loader of .40 caliber or larger, or shotgun using slug or buckshot.

5.09. Wild turkey may be hunted with a bow and arrow, or shotgun, or muzzle loading shotgun using number four (#4) shot or smaller.

5.10. Bow and arrow may be used to hunt both big game and small game, provided that a broad head with a cutting surface of 1 inch (1") diameter may be used to hunt big game including wild turkey. *5.11.* It shall be unlawful to hunt deer or wild turkey with dogs.

5.12. It shall be unlawful to hunt or trap with a firearm on any lands during daylight hunting hours from August 15 through April 30 unless 1 square foot of hunters orange is worn and visible from all sides. This does not apply to persons hunting waterfowl, crow, wild turkey, predators, nor bow hunters except during firearm deer season.

SECTION 6. WATERFOWL REGULATIONS

6.01. Any member twelve (12) years of age or older who hunts migratory birds within the Ceded Territory shall have in possession a valid Tribal License.

6.02. No Tribal Member under twelve (12) years of age shall be allowed to possess a Tribal license or hunt migratory birds.

6.03. Offenses.

A. In addition to the violation of any of the provisions herein contained, or any other hunting regulation enacted now or in the future by a Tribal Council, the acts or omissions described below shall constitute misdemeanors. An Enforcement Officer may arrest a person(s) committing an offense and may seize or confiscate any migratory birds, firearms, bows, vessels, vehicles, and any associated paraphernalia used in hunting at the scene of the offense.

B. In addition to any punishment provided for upon the conviction of any misdemeanor, or any other offense described herein, or upon conviction for the violation of any regulation now enacted or herein after enacted with respect to hunting migratory birds by the Tribal Council, any person so convicted may have any hunting equipment or paraphernalia in his possession at the scene of the offense permanently confiscated. Also, the above said person(s) is/are subject to fines and incarceration as imposed by the Tribal Court.

C. It shall be unlawful to:

1. Engage in any migratory bird hunting without first obtaining a Tribal license.
2. Use or allow another person to make use of a Tribal license not his/her own.
3. Engage in wanton destruction of migratory birds.
4. Fail to make a reasonable effort to recover dead or wounded migratory birds.

5. Take, possess, or transport, or aid, assist, or abet the taking, possession or transportation, of any migratory bird protected by Tribal or Federal law.
6. Exceed established limits, or use prohibited means of taking migratory birds.
7. Hunt while visibly impaired due to the consumption of alcohol or controlled substances.
8. Refuse to produce a Tribal license or other identification upon request of an Enforcement Officer.
9. Use fraud or perjury in procuring a Tribal license.
10. Fail to allow the inspection of any migratory bird or bird part in possession upon demand of an Enforcement Officer.
11. Harass or interfere with any legal licensed hunter.
12. Shoot, attempt to shoot, or harm in any way any Endangered Species.
13. Take migratory game birds with trap, snare, swivel gun, punt gun, battery gun, automatic fired weapon, shotgun with shells longer than 3.5", fish hook, poison, drug, or stupefying substance, or explosive.
14. Take migratory birds with a shotgun of any description greater than 10 gauge and capable of holding more than three (3) shells, unless it is plugged with a one piece filler which is incapable of removal without disassembling the gun, so its total capacity does not exceed three shells.
15. Use or be in possession of any shot other than steel to take migratory birds; provided, however, that it shall be legal to hunt woodcock with shot rather than steel.
16. Hunt migratory birds from or by means or use of a sink box, or other low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water.
17. Use any rim fire, center fire, or muzzle loading rifle to take migratory birds.
18. Pursue migratory birds from a motor boat, or any other craft having a motor attached, or sailboat unless the motor is completely off, and/or the sails are unfurled, or by means of any motorized land or air conveyance.

19. Use any land, water, or air conveyance to drive, concentrate, or disperse migratory birds.
20. Use or attempt to use bait, or hunt on or near a baited area. Baiting for migratory birds shall mean the use and distribution of any grain, meals, salt, or other feed whatsoever so as to lure or attract such birds; and a place or locale which has been baited may be considered baited for ten days after such bait has been removed. Provided, however, that it shall be legal to hunt migratory game birds in agricultural fields where crops are standing, or have been harvested as a part of normal agricultural operational procedures, or grown for wildlife management, provided that the seeds and grains are not scattered or redistributed once the crop has been harvested.
21. Violate any Federal law pertaining to 50 CFR Part 20 dealing with hunting migratory birds.

6.05. Biological Monitoring of Harvest. It shall be the duty of the Tribal Biologists and Enforcement Officers working with Federal officials to monitor and sample the Tribal harvest of migratory birds through game bag checks, patrols, and mail surveys. The harvest of all species shall be reported to the U.S. Fish and Wildlife Service to permit evaluation of the impacts of the Tribal harvest and modify this Code on a seasonal basis. The South James Bay Canada Goose population will be monitored particularly closely, based on band recovery, to assess the impacts of hunting by the Tribes.

6.06. Seasons and Bag Limits. The season and bag limits for the taking of migratory birds shall be subject to the provisions of the Migratory Bird Treaty Act, 16, U.S.C. sections 703 to 711, and regulations promulgated pursuant thereto set forth at 50 C.F.R. Part 20.

SECTION 7. GATHERING VEGETATION

7.01. It shall be lawful for Tribal Members to gather and use vegetation for the construction of traditional crafts, handicraft articles, medicines, and food, subject to the following regulations.

7.02. Permission must be obtained from a private land owner prior to gathering on such land.

7.03. Any gathering of vegetative material, a Tribal member must acquire a Special Use Permit from his/her Tribe pursuant to Tribal regulations. Provided, that no permit is required to gather fruit, fungi and nuts.

7.04. It shall be unlawful to gather, collect, or be in possession of any vegetation or parts of any threatened or Endangered Species.

SECTION 8. SUBSISTENCE AND SPORT FISHING

8.01. Any Tribal member twelve (12) years of age or older who fishes within the Ceded Territory shall have in possession a Tribal license. No license is required for a Tribal member less than twelve (12) years of age, but all regulations contained in this Code shall apply.

8.02. Methods and Gear Restrictions

- A. The use of poles, reels, tip-ups, and hand lines is lawful for use while fishing.
- B. Seines up to thirty feet (30') by three feet (3') and dip nets up to nine (9) square feet are legal for smelt on the inland lakes and 100 yards upstream on all tributaries and connecting waters of the Great Lakes.
- C. Bait fish may be taken by traps, seines up to thirty feet (30') by three feet (3') and dip nets up to nine (9) square feet.
- D. Individual hook and line fishing is limited to four (4) lines per person with two (2) hooks per line. Ice fishing is limited to eight (8) tip ups and one (1) pole or hand line per licensee.
- E. Fixed ice shanties must have the owner's name, address and Tribal license number permanently affixed on all sides with letters at least two inches (2") high. Shanties must be removed when the ice is unsafe.
- F. Fishing with a spear, bow and arrow, or dip net, is permitted on any streams, lakes and rivers subject to the season, size and creel limits and other

restrictions imposed by Tribal regulations. Provided that spearing is only permitted for white fish, trout (including steelhead), northern pike, walleye, herring, menominee, suckers, carp, drum, bass, muskellunge, buffalo, salmon and sauger.

8.03. Restrictions. It shall be unlawful to:

- A. Use explosives, drugs, poisons, lime, medicated bait, or other deleterious substances to take or attempt to take fish.
- B. Drive or harass fish into nets.
- C. Use firearms to take or attempt to take fish.
- D. Use gill nets, trap nets, seines or gorge to take fish, except as allowed for bait fish under section 8.02(C) and smelt under section 8.02(B).
- E. Use a snag hook to take or attempt to take fish.
- F. Destroy or waste of fish.
- G. Harass or impede another fisherman or boater.
- H. Take fish for the sole purpose of egg (spawn) collection.
- I. Take any species of game fish determined to be rare or endangered by the Fish and Wildlife Service or the Tribal Council.

8.04. Seasons and Creel Limits for Fish Harvest. The seasons and creel limits for the taking of the various fish species specified in Section 1.14 shall be as determined by Tribal regulations.

SECTION 9. AMPHIBIANS AND REPTILES

9.01. Amphibians. Amphibians may be taken the last Saturday in May through November 15 with no size limit. Not more than fifty (50) of each species shall be taken per day and not more than one hundred (100) of any species may be in possession at any given time.

9.02. Reptiles. No Snapping turtles and soft shelled turtles may be taken throughout the year without a special use permit. With a special permit, No snapping turtle less than 8" of carapace may be taken.

9.03. Equipment. Taking of amphibians and reptiles may be done by hand, trap, dip nets,

seines, and hook and line. Frogs may be speared, but not with artificial light.

9.04. Taking of amphibians and reptiles shall be for personal use only.

SECTION 10. BIOLOGICAL ASSESSMENT AND MONITORING

10.01. To conduct biological assessment, habitat evaluation, or other biological study, upon recommendation of the Biological Services or Conservation Program to the Tribal Council, the Tribal Council may require that fur bearers, small game, big game, migratory birds, fish, reptiles, amphibians or the habitats of any of them within the Ceded Territory shall be subject to reasonable biological assessment. The purpose of such assessment is to insure the long range management of these species and their environs, or to make modifications, or changes to the existing regulations or any future regulations as necessary to foster such management.

10.02. *Monitoring.* It shall be the duty of Tribal biologists to monitor all take of game, fish, fur bearers, migratory birds, reptiles, amphibians and plants and the natural growth harvest of migratory birds through the receipt of catch reports, through game bag checks, patrols, jawbone retrieval and mail surveys.

SECTION 11. SPECIAL USE PERMITS.

11.01. Except as provided in paragraphs 11.02 and 11.03, nothing in this Code shall prohibit the harvest or use of any natural resource by Tribal members for religious or ceremonial purposes or for consumption by Tribal elders.

11.02. No Tribal members shall harvest out of season a natural resource for religious or ceremonial purposes or for consumption by Tribal elders without a Special Use Permit from the Tribe. It shall be a violation of these regulations to fail to comply with the terms and conditions of any such Special Use Permit.

11.03. In reviewing and taking action on a request for any Special Use Permit, a Tribe shall take into account the biological impact of the harvest and include such terms and conditions as may be necessary to protect the resource and shall ensure compliance with

all applicable law.

11.04. Gathering. A special use permit shall be required for individual gathering purposes.

11.05. Special weapons to be used. A special use permit may be submitted to the LTBB Natural Resources Commission requesting use of a firearm or firearm accessory not listed in the Little Traverse Bay Bands of Odawa Indians Uniform Conservation Code as provided in section 5. Hunting Restrictions.

SECTION 12. POSSESSION AND USE FOR RELIGIOUS PURPOSES.

12.01. No animal shall be taken, or plant or mineral gathered, by any Tribal member for any purpose except as allowed for in this Code or by Special Use Permit issued by a Tribe under this Code.

12.02. Nothing in this Code shall be construed to prohibit the possession or use of any species of plant or animal by a Tribal member for religious purposes.

12.03. If a Tribal member finds a dead eagle, hawk, fur bearer, or any Endangered Species, the member shall report the finding as soon as possible to the Tribal Biological Services or Conservation Department. The member shall leave it and direct the appropriate Tribal authority to the place where the carcass was found. After inspection of the scene, the Tribal Enforcement Officer or any officer deputized by the Tribal Council shall take a sworn statement from the Tribal member regarding the circumstances under which the carcass was found. The Enforcement Officer shall then deliver the carcass to the appropriate Tribal authority for shipment to the appropriate agency.

12.04. Each Tribe shall maintain a repository to keep parts of eagles, hawks, fur bearers and any Endangered Species from species either taken in violation of this Code or other applicable Tribal law or acquired pursuant to section 12.03. Tribal members may request in writing animal parts from the repository for religious purposes. Each Tribe will develop regulations to process such requests so that items in the repository can be distributed to Tribal members in a fair and efficient manner. The Tribes may issue possession licenses if needed to protect Tribal members from non-Tribal law enforcement agencies.

SECTION 13. OFFENSES.

13.01. In addition to the violation of any of the provisions herein contained, or any other fishing, hunting, trapping or gathering regulation now or in the future enacted by a Tribal Council, the acts or omissions described in section 13.04 constitute misdemeanors. An Enforcement Officer or any officer deputized by a Tribal Council may arrest those person(s) committing the offense and may seize or confiscate any fish, reptiles, amphibians, game, fur bearers, hides, vehicles, vessels, firearms, bows, traps, nets, lines, and any associated paraphernalia used in fishing, hunting, trapping or gathering to be turned over to the Tribal Court of the offender.

13.02. In addition to any punishment provided for upon the conviction for violations of any provisions of this Code, or of the violation of any regulation now or in the future enacted with respect to fishing, hunting, trapping or gathering activities by the Tribal Council, any person so convicted may have any fishing, hunting, trapping or gathering equipment or paraphernalia in his possession at the scene of the offense permanently confiscated, and may also be subject to fines and incarceration as imposed by the Tribal Court.

13.03. It shall be no defense in any criminal or civil prosecution under this Code, pertaining to hunting, fishing, trapping, or gathering for a Tribal member to claim a lack of awareness or understanding of law or regulations. A conviction upon a violation of any of the provisions of this Code shall constitute a conviction of a misdemeanor or civil offense.

13.04. It shall be unlawful to:

- A. Engage in any fishing, hunting or trapping without first obtaining a Tribal License.
- B. Use or allow another person to make use of a Tribal License not his/her own.
- C. Engage in wanton destruction or waste of fish, game, reptiles, amphibians or plants.
- D. Take, possess, or transport, or aid, assist, or abet the same, of any game protected by Tribal Council or Federal law.

- E. Exceed established limits, or use prohibited means of taking game, fish, reptiles, amphibians or the gathering of Plants.
- F. Hunt, fish or trap while visibly impaired due to the consumption of alcohol or controlled substances.
- G. Refuse to produce a Tribal license, permit or other identification upon the request of an Enforcement Officer.
- H. Engage in fraud or perjury in procuring a Tribal license.
- I. Refuse to allow inspection of any game, fish, reptiles, amphibians, hides, pelts, or furs in possession upon request of an Enforcement Officer.
- J. Harass or interfere with any legal licensed person fishing, hunting or trapping.
- K. Engage in any fishing, hunting, trapping or gathering of plants without first obtaining a Special Use Permit when the same is required under this Code or by Tribal regulation.
- L. Exceed established limits, or prohibited means of taking game, fish, reptiles, amphibians and plants or violate any other terms or conditions contained in any Special Use Permit.

13.05. Any Tribal Member shooting, attempting to shoot, trapping, or attempting to trap, or to harm in any way, any Threatened, or Endangered Species will be held by Enforcement Officers until taken into custody by Federal officials for violation of Federal law.

SECTION 14. FINES AND PENALTIES

14.01. Any licenses or permits authorized by this Code may be suspended or revoked by the Tribe.

14.02. Any violation of the regulations contained in this Code, or of the regulations established by the Tribe regarding gathering, season, bag and creel limits, or restrictions on method or matter of gathering, or taking, game or fish shall be tried before the Tribal Court under such procedures as are prescribed by the Tribe.

14.03. The following are the minimum penalties for the first offense for a member found guilty of killing, wounding, catching, taking or trapping, or attempting to catch, take, or trap, or possessing any of the following named protected fish, game or fur bearers, or any parts thereof in violation of any of the provisions of this Code:

- A. Any Endangered Species or any species determined to be threatened or endangered by a Tribal Council - \$1,000.00
- B. Any elk or bear - \$500.00
- C. Any deer or wild turkey - \$250.00
- D. Any beaver, mink, otter, badger, or bobcat - \$ 100.00
- E. Any rabbit, muskrat, squirrel, or raccoon - \$30.00
- F. Any ruffed grouse, woodcock, morning dove, ring neck pheasant, quail or sharp tail grouse - \$30.00
- G. Any waterfowl - \$50.00
- H. Any Sturgeon, Muskellunge, Tiger Muskellunge, or grayling - \$100.00
- I. Any Lake Trout, Brown trout, Rainbow trout, brook trout, Largemouth bass, Small mouth bass, Walleye, Northern pike, Whitefish, Menominee whitefish - \$50.00
- J. Any fish or game animal not named - \$25.00

14.04. Repeat offenders may be fined up to \$5,000.00 and/or incarcerated for up to one (1) year, and or lose hunting, trapping or fishing privileges, at the discretion of the Tribal Court.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Uniform Conservation Code of the Odawa/Ottawa and Chippewa of Northern Michigan was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on January 19, 1997, at which a quorum was present, by a vote of 4 in favor, 0 opposed, and 0 abstentions as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Patricia Dyer-Deckrow	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Frank Ettawageshik	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Barry Laughlin	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Shirley Oldman	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>
Janet Shomin	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Alice Yellowbank	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>

Date: 1-19-97

Frank Ettawageshik
Frank Ettawageshik, Tribal Chairman

Barry Laughlin
Barry Laughlin, Tribal Secretary