

WAGANAKISING ODAWAK STATUTE 2002-07

LTBB Off-Reservation (Ceded Territory)
Hunting, Fishing and Gathering

Preamble

The Little Traverse Bay Bands of Odawa Indians (LTBB) is a party 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 reserves treaty rights. The uniform Code enables the Tribe to coordinate their efforts to preserve and conserve the resource while promoting public safety. The purpose of these regulations is to preserve and conserve the natural resource on and in 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 regulations of those uses on the Treaty-ceded 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 *Amphibians and Reptiles* - Bull frogs, green frogs, salamanders, snapping turtles , and soft-shelled turtles.
- 1.02 *Baitfish* - Any legally taken and possessed fish (except sea lamprey, goldfish or any other exotic fish) used for catching other fish.
- 1.03 *Big Game* - Whitetail deer, black bear, wild turkey, elk, and moose.
- 1.04 *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.
- 1.05 *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.

- 1.06 *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 the 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 Thunder bay 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 Githey 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 Skonawba river of Green Bay, thence down the south bank of 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 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.

- 1.07 *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 *Crossbow*- a device using a bow that, once drawn, is held solely by means other than the effort of the person firing it.
- 1.09 *Disabled Tribal Hunter*- A person who has been diagnosed by a certified medical Doctor to be permanently physically disabled.
- 1.10 *Endangered Species* - Any species of wildlife or plant designated as rare or endangered by the Tribal Council, or the United States Department of the Interior pursuant to 50 C.F.R. Part 17.
- 1.11 *Enforcement Officer* - Any Tribal Enforcement officer authorized by Tribal law to enforce Tribal conservation regulations, or federal enforcement agents, including Special Agents of the U.S. Fish and Wildlife Service, or

other persons deputized by the Tribal Council to enforce these regulations.

- 1.12 *Firearm* - A weapon from which dangerous projectiles may be propelled by use of explosives, gas, or air as a means of propulsion.
- 1.13 *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.
- 1.14 *Fur bearer* - Fur bearing animals including coyote, red fox, gray fox, bobcat, beaver, otter, muskrat, mink, weasel, skunk, raccoon, badger and opossum.
- 1.15 *Game* - Small game and big game.
- 1.16 *Fish* - Brook trout, lake trout, splake, brown trout, rainbow (steelhead) trout, coho salmon, chinook salmon, Atlantic salmon, largemouth bass, small mouth 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.
- 1.17 *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.
- 1.18 *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; making or selling handicraft article including the commercial sale of such articles; or for barter. For purpose 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; and

- B. "Handicraft articles" means article 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 exchange of natural resources or parts thereof for personal uses between Tribal members.
- 1.19 *Physician*- A person duly licensed by any state in the United States to practice medicine or osteopathic medicine and surgery.
- 1.20 *Regulations* – These regulations including any subsequent amendments to these regulation and any separate Tribal treaty regulations enacted by a Tribe.
- 1.21 *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.
- 1.22 *Slingshot* - A "Y" shaped device with an elastic strip at the prong, or one strip of stretchable material, with a pocket on one end, used for projecting stones or other objects.
- 1.23 *Small game* - Ruffed grouse (partridge), mourning dove, ring-neck pheasant, cottontail rabbit, snowshoe hare, gray squirrel, black squirrel, fox squirrel, red squirrel, quail, woodchuck, porcupine, sharp tail grouse and crow.
- 1.24 *Targeting* – Fishing, hunting, trapping, or gathering activity, which has the effect of catching or taking a specific species or species of fish, wildlife, or plants.
- 1.25 *Threatened Species*- A species at risk of becoming endangered as determined by official action of the Tribal council or by the United States Department of Interior.
- 1.26 *Transport or Transportation* - Carrying or moving by any vehicle or vessel, causing to be carried or moved or attempting to do so, or accepting or receiving wild animals, plants, or fish or any parts thereof.
- 1.27 *Treaty* – The March 28, 1836 Treaty of Washington with the Ottawa's, 7 Stat. 491.

- 1.28 *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, the Sault Ste. Marie Tribe of Chippewa Indians and Bay Mills Indian Community.
- 1.29 *Tribal Court* – The Court of one of the Tribes.
- 1.30 *Tribal License* – A gathering, hunting, trapping, or fishing License issued by a Tribe to Tribal member, which is valid and current.
- 1.31 *Tribal Members* – Enrolled members of one of the Tribes.
- 1.32 *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.

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 Ceded Territory.
- 2.02 *Open Areas.* Tribal hunters may hunt, trap, fish and gather within the Ceded Territory pursuant to the regulations contained in this Code, only on the following lands and waters:
- A. Lands open to public hunting, trapping, and gathering.
 - B. Tribal lands which are open to hunting, trapping, fishing and gathering by Tribal members; and
 - C. 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.
 - D. All lakes, rivers, streams and creeks accessible through public right-of-ways including but not limited to public road crossings, or otherwise assessable by a landowner's permission.

SECTION 3: HUNTING AND TRAPPING REGULATIONS

- 3.01 HUNTING LICENSES-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, crossbow, slingshot, trapping apparatus, or any other device capable of killing or restraining fur bearers or game, shall have in his/her possession a valid and current Tribal license.
- 3.01.1 *Hunters Safety Course-* Any Tribal member 21 years of age or younger 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 Hunter Safety Course. If you are over the age of 21 and can not produce evidence of a previous lawfully issued hunting license nor produce evidence of having successfully completed a certified Hunters Safety Course, you will be required to take and successfully pass a 25 question hunters safety test before being issued a license to hunt.
- 3.01.2 *Age Limits-*
- A. No Tribal member less than twelve (12) years of age shall be allowed to possess a Tribal License to hunt. Any Tribal member under twelve (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.
 - B. A Tribal Member must be at least fourteen (14) years of age to hunt big game with a firearm.
 - C. 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.
- 3.01.3 *Harvest Tags-* In addition to the Tribal license required by this section, a Tribal Member may be required to obtain annual harvest tags in order to hunt or trap certain species. The harvest tags shall be completely filled out and affixed to the animal when transporting the game.

- A. Annual harvest tags shall be obtained from the Tribe in order to hunt deer, bear, bobcat, moose, elk, or wild turkey.
- B. Annual harvest tags shall be obtained from the Tribe in order to trap otter, badger or bobcat.
- C. Harvest tags shall be affixed immediately after harvest to the left ear of harvested animals with exception to turkeys where the tag must be affixed to the left foot.

3.01.4 Special Use Permits

A. *Disabled Tribal Hunter Permits-*

1) The Natural Resources Department may issue a Disabled Tribal Hunter permit to discharge a firearm, bow or crossbow from a stationary motor vehicle within a roadway other than a state or federal highway to a member who is permanently physically unable to walk without crutches, braces, or other mechanical support as verified by a Physician. The holder of such a permit must shoot away from and not across the roadway. 2) The Natural Resources Department may issue a Disabled Tribal Hunter a permit to use a cross bow during archery season provided that the member is deemed permanently unable to physically use a conventional bow (compound/re-curve) as verified by the written opinion of a Physician.

- B. *Special Needs Permit-* Tribal Hunters with special needs may obtain a permit from the Natural Resources Department. The criteria for a special needs permit include, but are not limited to, being out of food, a death or birth in the immediate family, or a family hardship. The Tribal Hunter shall have a valid tribal license and request a special needs permit and tags in person. A tribal member with a special needs permit may use the services of another enrolled Tribal member to harvest an animal for them, in which case both the permittee and helper must be named on the permit.

3.02 HUNTING AND TRAPPING GENERAL PROVISIONS

- 3.02.1 *Artificial Light-* Artificial light may only be used to hunt fox, raccoon and coyote.

- 3.02.2 *Possession*- A legal and current License shall be required to take transport, or possess any fish, game, 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 constructed to allow the violation of any other provisions of the Tribal Code relating to the possession or use of any regulated gear.
- 3.02.3 *Sale of Game*- It shall be unlawful for any Tribal member to engage in the sale of the flesh of game.
- 3.02.4 *Transportation*- 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 (that requires a tag) must be tagged with a harvest tag containing all necessary information required.
- 3.02.5 *Shooting Hours*- Shooting hours are one half-hour before sunrise to one half-hour after sunset excluding waterfowl. Fox, raccoon and coyote may be hunted after sunset with use of dogs, game call, or artificial lights.
- 3.02.6 *Pursuit with Vehicles*- 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.
- 3.02.7 *Harmful Substances*- No fur bearer, migratory birds, small game, or big game may be lawfully taken by use of explosive, drugs, poisons, medicated bait, or other harmful substances.
- 3.02.8 *Trapping Big Game*- It shall be unlawful to trap or snare big game animals.
- 3.02.9 *Shooting Fur Bearers*- It shall be unlawful to shoot fur bearers, small, or big game while they are in the water.
- 3.02.10 *Traps*- Traps used for harvesting fur bearers, snowshoe hare or cottontail rabbit shall be either leghold, box type, or body gripping (conibear) type. It shall be unlawful to use snares except while trapping for beaver, otter, or muskrat in the riparian corridor or

submerged in streams or lakes. The snares shall be attended within forty-eight (48) hours.

- 3.02.11 *Trap Markings*- All traps set shall be clearly marked with the Tribal license number and the name of the person who set the trap. All traps shall be attended at least every forty-eight (48)hours.
- 3.02.12 *Marking of Hides*- 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.
- 3.02.13 *Barter of Hides & Flesh*- It shall be lawful for Tribal Members to possess, sell, or use for barter, or transport 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.
- 3.02.14 *Shipping of Hides*- 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 1836 Ceded Territory, or offered for sale or barter.

Federal Laws on Hides- All Federal laws and regulations regarding the identification, sale, and transportation of hides, furs or pelts of any fur bearer apply to the identification, sale or transportation under Federal Regulations. All shipments of raw hides or furs must be plainly marked on the outside of the package as to the contents. If you wish to export bobcat, otter or bear hides from the United States, you will need a federal permit. For details contact the Natural Resource Department.

3.02.14*Transportation of firearms, Bows, Crossbows, and Muzzleloaders-*

- A. A member may not transport firearms in any motorized vehicle within the Ceded Territory unless they are; 1) unloaded and in a gun case expressly made to contain a firearm, and the case fully encloses the firearm being zipped, snapped, buckled, tied, or otherwise fastened, and without any portion of the firearm exposed; 2) unloaded and in the closed trunk of a motor vehicle and not accessible from the driver and passenger compartment of the vehicle; 3) if a handgun, the following criteria apply: a) While in the field, handguns must be carried in plain view. Carrying a handgun in a holster in plain view is permitted. b) You may

transport your handguns while enroute to and from your hunting area, however, handguns, including BB guns larger than .177 caliber and all pellet guns must be unloaded and carried in a container or wrapper in the trunk of the vehicle. If the vehicle does not have a trunk, the handgun must be unloaded and carried in a container or wrapper and cannot be readily accessible to any occupant of the vehicle. c) A restricted concealed pistol license for hunting, trapping, or target shooting does not give you any additional authority to transport a loaded or unloaded handgun in your vehicle or on any public conveyance.

- B. A member may not transport an archery bow or cross bow in motor vehicle unless the bow is; 1) unstrung; 2) completely contained in a case expressly made to contain it; or 3) in the closed trunk of a motor vehicle and not accessible from the driver and passenger compartment of the vehicle.
- C. A member may not transport a muzzleloader rifle in a motor vehicle unless the muzzleloader is 1) unloaded with the cap removed and completely contained in a case expressly made to contain it; 2) unloaded and in the closed trunk of a motor vehicle and not accessible from the driver and passenger compartment of the vehicle.

3.01.17 *Discharging Firearms, Bows, Crossbows and Muzzleloaders-*

- A. A member may not discharge a firearm , bow, crossbow or muzzleloader on, over or across an improved public highway.
- B. A member may not discharge a firearm , bow, crossbow or muzzleloader within the right-of-way of an improved highway.
- C. It shall be unlawful to discharge any firearm, arrow, or projectile from a motorized vehicle. Provided, however, that it is unlawful 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.
- D. Exception: It shall be lawful to discharge a firearm from a motorized vehicle if the individual possesses a valid disabled hunter permit, the vehicle is at least 150 feet from any primary road, and the motor is off.

- 3.01.18 *Live Animals for Tapping*- It shall be lawful to possess, in a humane way during trapping season, one live coyote and two live fox for the purpose of collecting urine and droppings for trapping; provided, at least one member of the immediate family must have a valid Tribal trapping license.
- 3.01.19 *Harassment of Hunters*- It shall be unlawful to harass, impede, or interfere with any legally licensed hunter.
- 3.01.20 *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.

3.02 HUNTING RESTRICTIONS

- 3.02.1 *Automatic & Semi-automatic Weapons*- 1) Fully automatic firearms are at no time to be used in hunting, pursuing or killing of wild animals, or be in possession of, in an area frequented by wild animals. 2) No Tribal Member shall use in hunting, pursuing or killing a wild animal, or be in possession of, in an area frequented by wild animals any 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, for use for small game only, or use cartridges containing either tracer or exploding bullets. 3) All shotguns used for migratory birds (including woodcock) must be plugged so the total capacity of the shotgun does not exceed three shells.
- 3.02.2 *Silencers*- No Tribal Member shall use, or be in possession of, a device or apparatus known as a silencer.
- 3.02.3 *Hunting from Platforms*- Tribal Members may hunt deer, small game, fur bearers or bear from a tree or portable raised platform.
- 3.02.4 *Harvesting Restrictions*- 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.

- 3.02.5 *Driving Wildlife*- It shall be unlawful to set or use fire to drive wild animals or to attempt to take wild animals.
- 3.02.6 *Baiting*- 1) A Tribal Member may use salt and/or bait to hunt for deer in non-Tuberculosis (TB) designated counties only. 2) It shall be unlawful to establish bear bait stations prior to August 10 in the Upper Peninsula or prior to August 20 in the Lower Peninsula. 3) All bait stations must be placed on the ground and may not contain any plastic, metal, wood, products, glass, paper, or fabric. 4) All containers used to carry bait to the site must be removed from the site. 5) No drugs or poisons shall be used.
- 3.02.7 *Firearm Limitations*- 1) Any firearm used in hunting big game other than wild turkey must be a center fire rifle of .223 caliber or larger, muzzle loader of .40 caliber or larger, or shotgun using slug or buckshot. 2) Wild turkey may be hunted with a bow and arrow, shotgun or muzzle loading shotgun using number four (#4) shot or smaller.
- 3.02.8 *Bow and Arrow Limitations*- Bow and arrow may be used to hunt both big game and small game, provided that a broad head with a cutting surface of at least one inch (1") diameter may be used to hunt big game including wild turkey.
- 3.02.9 *Crossbow Limitations*- Disabled Tribal Hunters may use a crossbow to hunt big game during archery season provided that they have a valid Disabled Hunter's Permit. Non-disabled hunters may use a crossbow to hunt big game during firearm season.
- 3.02.10 *Hunting Big Game with Dogs*- 1) It shall be unlawful to hunt deer, elk, moose or wild turkey with dogs. 2) Dogs may be used to hunt bear provided that no more than six dogs per pack are used and that if relaying no more than six dogs shall be used.
- 3.02.11 *Hunters Orange*- 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 one (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 to bow hunters, except during firearm deer season.

3.03 HUNTING SEASONS

- 3.03.1 *Small Game* – September 1 to April 1.
- 3.03.2 *Deer*
 - A. Archery – October 1 to January 1
 - B. Firearm – November 15 to December 3, provided that the Tribe may issue antlerless special permits for November 13-14, and special permits/tags for either sex through December 3.
 - C. Muzzleloader – December 4 to December 18.
- 3.03.3 *Bear* – September 10 to October 30, counties open to hunting to be designated by Tribal Wildlife Biologists.
- 3.03.4 *Wild Turkey*
 - A. Fall Season – October 1 to November 14.
 - B. Spring Season – April 15 to May 31.
- 3.03.5 *Elk and Moose* – Seasons to be determined by Tribal Biologists.
- 3.03.6 *Fur bearers*
 - A. Hunting
 1. Bobcat and mink- October 25 through March 15.
 2. Gray fox, red fox, raccoon and coyote October 1 through March 15.
 - B. Trapping
 1. Beaver and otter - November 1 through April 16.
 2. Muskrat, mink and bobcat - November 1 through March 1.
 3. Raccoon, red fox, gray fox, coyote and badger – November 1 to March 1.
- 3.04 BAG LIMITS

3.04.1 *Small Game* - A limit of five (5) of each species per day and a possession in transport limit of no more than two (2) days' limit per licensee.

3.04.2 *Big Game*

- A. Deer - A limit of five deer per tribal hunter per season (includes Reservation and Ceded Territory), two (2) bucks with 3-inch antlers and three (3) does. The tribal hunter may harvest the deer with a bow and arrow, cross bow, rifle or muzzleloader. Provided that no more than two permits shall be issued at any one time and subsequent permits are issued only upon receipt of filled harvest tags.
- B. Elk, Moose and Bear - Bag limits and tags to be determined by Tribal Biologists on an annual basis. (Tags may be issued through a lottery conducted by the Tribes. The total number of tags issued by the Tribe combined will be based on a percentage of sustainable harvest. The Tribe will issue an equal number of tags based on this total.)
- C. Wild Turkey - Two (2) birds per fall season; one (1) adult males with visible beards per spring season.

3.04.3 *Trapping*

- A. Otter, badger and bobcat - one (1) per season. All other species have no bag limit.
- B. Accidentally trapped non-target protected species such as lynx, gray wolf, fisher or marten are unlawful to possess. All live animals shall be released if possible. The trapping of all other such animals shall be reported immediately to a Conservation Officer, and the procedures set forth in Section 12.03 of the Natural Resources Regulations shall apply.

SECTION 4: MIGRATORY BIRD REGULATIONS

4.01 The Tribal Wildlife Biologist shall submit migratory bird rules and regulations to the United States Fish and Wildlife Service on an annual basis.

- 4.02 Any Tribal Member twelve (12) years of age or older who hunts migratory birds within the Ceded Territory shall have in possession a valid Tribal license.
- 4.03 No Tribal Member under twelve (12) years of age shall be allowed to possess a Tribal license to hunt migratory birds.
- 4.04 *Shooting Hours-* From one half (1/2) hour before sunrise until sunset.
- 4.05 *Restrictions.* It shall be unlawful to:
- A. Engage in wanton destruction of migratory birds.
 - B. Fail to make a reasonable effort to recover dead or wounded migratory birds.
 - C. Take, possess, transport, or aid, assist or abet the taking, possession or transportation, of any migratory bird protected by Tribal or Federal law.
 - D. Exceed established limits or use prohibited means of taking migratory birds.
 - E. Fail to allow the inspection of any migratory bird or bird part in possession upon demand of an Enforcement Officer.
 - F. Take migratory game birds with trap snare swivel gun, punt gun, battery gun, automatic fired weapon, shot gun with shells longer than three and one half inches (3.5"), fish hook, poison, drug, or stupefying substance, or explosive.
 - G. Take migratory birds with a shotgun of any description greater than ten (10) gauge and capable of holding more than three (3) shells, unless it is plugged with a one (1) piece filler which is incapable of removal without disassembling the gun, so its total capacity does not exceed three (3) shells.
 - H. 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 lead shot rather than steel.

- I. 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.
- J. Use any rim fire, center fire, or muzzle loading rifle to take migratory birds.
- K. 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.
- L. Use any land, water or air conveyance to drive, concentrate or disperse migratory birds.
- M. 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 (10) 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.
- N. Violate any Federal law addressed in 50 C.F.R. Part 20 dealing with hunting migratory birds

4.06 *Biological Monitoring of Harvest*- It shall be the duty of the Tribal Biologist 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.

4.07 SEASONS

4.07.1 *Ducks*— September 20, through January 20.

4.07.2 *Geese-*

- A. White Front, Brant, Snow and Blue Geese- October 1 through November 30.
- B. Canada geese—September 1 through January 20.

4.07.3 *Woodcock, snipe, sora rail-* September 1- November 14.

4.07.4 Swans – It shall be unlawful to shoot or attempt to shoot swans.

4.08 BAG LIMITS

4.08.1 *Ducks-* The bag limit for ducks shall not exceed ten (10) per day, and shall not include more than one (1) pintail, one (1) canvasback, one (1) hooded merganser, two (2) black ducks, two (2) wood ducks, two (2) redheads, and five (5) mallards- only two of which may be hens.

4.08.2 *Geese-* The daily bag limits for Canada geese, brant, white-fronted, snow and blue geese, shall not exceed five (5) per day.

4.08.3 *Woodcock, snipe, sora rail-* The daily bag limit shall not exceed five (5) per day.

4.08.3 The possession limit for ducks and geese shall not exceed two (2) days' bag limit.

SECTION 5. SUBSISTENCE AND SPORT FISHING REGULATIONS

5.01 *FISHING LICENCES-* Any Tribal member sixteen (16) 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.

5.01.1 *Age Limits-*

- A. Any Tribal Member sixteen (16) years of age or older who fishes within the Ceded Territory shall have in possession a Tribal license.

- B. No Tribal member under sixteen (16) 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.

5.01.2 *Methods and Gear Restrictions-*

- A. The use of poles, reels, tip-ups and hand lines are 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 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 lines, per licensee.
- E. Fixed ice shanties must have the owner's name, address and number of the Tribal license number permanently affixed on all sides with letters at least three inches (3 ") high. Shanties must be removed when the ice is unsafe but no later than March 15.
- F. Fishing with a spear, bow and arrow, or dipnet is permitted on any streams, lakes and river. The fisher shall be required to adhere to seasons, size and creel limits and other restrictions imposed by Tribal regulations. Provided that spearing is only permitted for whitefish, trout (brown, lake, steelhead only), northern pike, walleye, herring, menominee, suckers, carp, drum, bass, muskellunge, buffalo, salmon and sauger. In addition to the Tribal License required by this section, Tribal members are also required to obtain and submit complete harvest reports for the harvest of certain species of fish with a spear or bowfishing equipment.

5.01.3 *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 5.02 (C) and smelt under Section 5.02(B).
- E. Use a weighted treble hook or weight attached after the treble hook to take or attempt to take fish.
- F. Wanton destruction or waste of fish.
- G. Harass or impede another fisherman or boater.
- H. Take fish for the sole purpose of egg (spawn) collection.
- I. Possess any fish not hooked in the month while fishing with hook an line.

5.01.4 *Reporting-* In addition to the Tribal License required by this section, Tribal members are also required to obtain and submit complete harvest reports for the harvest of certain species of fish with a spear or bowfishing equipment.

- A. Harvest reports must be obtained from and submitted to their perspective Natural Resource Department in order to spear or bowfish for walleye, northern pike, muskellunge, salmon, trout (including steelhead).
- B. Harvest reports shall indicate the body of water where the harvest is taking place, date of harvest, and number harvested for each species.
- C. Harvest reports shall be submitted within seven (7) days of harvest date.

5.05 SEASONS

- 5.05.1 Trout and Salmon
 - A. Lakes - No closed season.
 - B. Streams and rivers - April 1 to December 1.
- 5.05.2 Largemouth bass, small mouth bass, sauger, walleye northern pike, muskellunge, and tiger muskellunge- April 1 through March 31.
- 5.05.3 Bluegill, sunfish, crappie, rock bass, perch, lake whitefish, menominee, catfish, and other species not listed - No closed season
- 5.05.4 Sturgeon - No open season.
- 5.05.5 Grayling – No open season.

5.06 SIZE LIMITS

- 5.06.1 Trout and Salmon-
 - A. Lakes - Ten inch (10") minimum.
 - B. Streams: Eight-inch (8") minimum.
- 5.06.2 Largemouth and small mouth bass - Twelve inch (12") minimum.
- 5.06.3 Northern pike - Twenty-inch (20") minimum.
- 5.06.4 Muskellunge and tiger muskellunge - forty-two inch (42") minimum.
- 5.06.5 Walleye - Fourteen inch (14") minimum
- 5.06.6 Bluegill, sunfish, crappie, lake whitefish, menominee, perch, catfish species, and other species not listed - No minimum size.

5.07 CREEL LIMITS

- 5.07.1 Lake trout, rainbow trout, splake, brook trout and brown trout - Five (5) per species per day in lakes with a maximum of ten (10) in combination.

- 5.07.2 Brook trout, brown trout, rainbow trout in streams - a maximum of ten (10) in any combination. No more than three (3) of the total may be over sixteen inches (16") long.
- 5.07.3 Coho, Atlantic, Humpback and Chinook salmon - Five (5) per species per day.
- 5.07.4 Muskellunge and tiger muskellunge - One (1) per day.
- 5.07.5 Largemouth bass, small mouth bass, walleye and sauger - Five (5) per day.
- 5.07.6 Bluegill, sunfish, crappie, lake whitefish, and yellow perch - Fifty (50) per day.
- 5.07.7 Northern Pike- Five (5) per day

SECTION 6. AMPHIBIANS AND REPTILES REGULATIONS

- 6.01 *General Regulations-* Amphibians and Reptiles may not be shot with firearms (including spring, air, or gas propelled), conventional bow, crossbow, or slingshot.
- 6.02 *Endangered and Threatened Species-* No animal as defined in section 1.10 shall be taken or possessed except as authorized by the Natural Resources Department.
- 6.03 *Amphibians-* Amphibians may be taken the last Saturday in May through November 15 with no size limit. No 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.
- 6.04 *Reptile Special Use Permit-* No snapping turtles or soft-shelled turtles may be taken at any time during the year without a special use permit. With a special permit, no snapping turtle less than eight inches (8") of carapace may be taken.
- 6.05 *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 while using artificial light.

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

SECTION 7. VEGETATION GATHERING REGULATIONS

It shall be lawful for Tribal Members to gather and use vegetation and natural growth for the construction of traditional crafts, handicraft articles, medicine and food, subject to the following regulations:

- 7.01 *Personal/Family Subsistence*- No license or permit will be required to gather fruit, berries, wild vegetables, fungi or nuts for personal or family consumption.
- 7.02 *Medicinal Use*- No license or permit will be required to gather vegetation or natural growth if such vegetation or natural growth is intended for religious or ceremonial purposes.
- 7.03 *Gathering Permit*- Tribal members seeking to harvest vegetation or natural growth for the sole purpose of incorporating it into a handicraft or artwork to be sold for a profit must acquire a gathering permit from their perspective Tribe before the harvest or attempt to harvest any vegetation or natural growth.
- 7.04 *Private Property*- Permission must be obtained from a private landowner prior to gathering on such land.
- 7.05 *Endangered Species* - It shall be unlawful to gather, collect, or be in possession of any vegetation or parts of any threatened or Endangered species.

SECTION 8. BIOLOGICAL ASSESSMENT AND MONITORING.

- 8.01 *Biological Assessment*- The Natural Resource Department 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 be subject to reasonable biological assessment. The purpose of such assessment is to insure long range management of these species and their environs, or changes to the existing regulations or any future regulations as necessary to foster such preservation and management.

- 8.02 *Assessment Permits-* A Tribe's Natural Resource Department may authorize a Tribal member assist with or perform an assessment to assist the tribe in gathering natural resource data to better help manage the resource more effectively. The tribal member will be required to have a valid Tribal License and have in his/her possession at all times a duly authorized assessment permit while conducting such assessment.
- 8.03 *Scientific Collectors Permit-* The Natural Resources Department may issue its employees collectors permits for the purpose of conducting biological assessments in accordance with the approved Strategic Plan.
- 8.04 *Monitoring-* It shall be the duty of the Tribal biologist to monitor all take and harvest of game, fish, fur bearers, migratory birds, reptiles, amphibians, plants and the natural growth through the receipt of catch reports, through game bag checks, patrols, jawbone retrieval and mail surveys.

SECTION 9. SPECIAL USE PERMITS

- 9.01 In reviewing and taking action on a request for any Special Use Permit, the Tribe shall take into account the biological impact of the harvest and to include such terms and conditions as may be necessary to protect the resource and shall ensure compliance with all applicable law.
- 9.02 *Assessment Permits-* A Tribe's Natural Resource Department may authorize a Tribal member to assist with or perform an assessment to assist the tribe in gathering natural resource data to better help the manage the resource more effectively. The tribal member will be required to have a valid Tribal License and have in his/her possession at all times a duly authorized assessment permit while conducting such assessment.
- 9.03 *Scientific Collectors Permit-* The Natural Resource Department may issue its employees collectors permits for the purpose of conducting biological assessments in accordance with the approved Strategic Plan.
- 9.04 *Gathering Permit-* Tribal members seeking to harvest vegetation or natural growth for the sole purpose of incorporating it into a

handicraft or artwork to be sold for a profit must acquire a gathering permit from their perspective Tribe before the harvest or attempt to harvest any vegetation or natural growth.

- 9.05 *Disabled Tribal Hunter Permits-* 1) The Natural Resources Department may issue a Disabled Tribal Hunter permit to discharge a firearm, bow or crossbow from a stationary motor vehicle within a roadway other than a state or federal highway to a member who is permanently physically unable to walk without crutches, braces, or other mechanical support as verified by a Physician. The holder of such a permit must shoot away from and not across the roadway. 2) The Natural Resources Department may issue a Disabled Tribal Hunter a permit to use a cross bow during archery season provided that the member is deemed permanently unable to physically use a conventional bow (compound/re-curve) by a Physician.
- 9.05 *Special Needs Permit-* Tribal Hunters with special needs may obtain a permit from the Natural Resources Department. The criteria for a Special Needs permit include, but are not limited to, being out of food, a death or birth in the immediate family, or a family hardship. The Tribal Hunter shall have a valid tribal license and request a special needs permit and tags in person. A tribal member with a special needs permit may use the services of another enrolled tribal member to harvest an animal for them.
- 9.06 *Reptile Special Use Permit-* No snapping turtles or soft-shelled turtles may be taken at any time during the year without a special use permit. With a special permit, no snapping turtle less than eight inches (8") of carapace may be taken.
- 9.07 *Roadkill Special Use Permit -* If a Tribal member accidentally strikes and mortally wounds a deer, elk, bear or moose while driving a motor vehicle or comes upon a fresh roadkill of such animal, the Tribal member shall report the finding as soon as possible to the Natural Resource Department or the Tribal Police Department. The member shall leave it and direct the appropriate Tribal authority to the place where the animal was struck or 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 circumstance under which the animal was struck or found. The Enforcement Officer shall then authorize the issuance of a special use permit to allow the Tribal member to take and use such animal.

SECTION 10. POSSESSION AND USE FOR RELIGIOUS PURPOSES.

- 10.01 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 the Special Use Permit issued by the Tribe under this Code.
- 10.02 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 Natural Resource 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 Tribal member regarding the circumstance under which the carcass was found. The Enforcement Officer shall then deliver the carcass to the appropriate Tribal authority agency.
- 10.03 Each Tribe may choose to maintain and operate a repository to keep parts of eagles, hawks, furbearers, and any Endangered Species from species either taken in violation of this code or other applicable Tribal law or acquired pursuant to section 10.03. 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.

SECTION 11. OFFENSES.

- 11.01 *Misdemeanors-* 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 11.04 constitute misdemeanors.
- 11.02 *Additional Penalties-* In addition, an Enforcement Officer or any officer deputized by a Tribal Council may arrest any 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. 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.

11.03 *Member Responsibility-* 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.

11.04 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, or 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 a Tribal 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 a Tribal Conservation Officer.
 - J. Harass or interfere with any legal licensed person fishing, hunting, 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 regulations.
 - 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.
 - M. Posses any big game or fur bearers that are not properly tagged or marked.
 - N. Violate any other provision of this code.
 - O. Assault, resist, oppose, impede, threaten, bribe, or attempt to bribe or interfere with a Officer engaged in enforcing these rules. (May result in a felony conviction).
- 11.05 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 12. FINES AND PENALTIES

- 12.01 Any licenses or permits authorized by this Code may be suspended or revoked by the issuing Tribe.
- 12.02 Any violation of the regulations contained in this Code, or of the regulations established regarding gathering, season, bag and Creel

limits, or restrictions on methods or matter of gathering, or taking, game or fish shall be tried before the Tribal Court of the offender under such procedures as are prescribed by that Tribe.

- 12.03. The following are the minimum penalties(all fines include court associated costs) 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, migratory bird, reptile, amphibian or fur bearers, or any parts thereof in violation of any of the provisions of this Code:
- A. Any Endangered Species as defined in section 1.10. - \$1,000.00
 - B. Any elk, moose 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 migratory bird - \$50.00
 - H. Any Sturgeon, Muskellunge, or Tiger Muskellunge, - \$100.00
 - I. Any Lake trout, Brown trout, Rainbow trout, brook trout, large mouth bass, small mouth bass, walleye, northern pike, whitefish or menominee whitefish - \$50.00
 - J. Any fish or game animal not named - \$25.00
 - K. Any Violation of this Code not specifically listed above- \$100.00
- 12.04 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.
- 12.05 Fines are deemed to be all inclusive. The actual monetary value of the collected fines shall be distributed/divided accordingly; one third (1/3) to the Natural Resource Department, one third (1/3) to the Tribal

Council and one third (1/3) to the Tribal Court to cover associated court costs.

Certification

As Tribal Chairman and Tribal Secretary, the undersigned certify that this Statute 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 September, 8, 2002 at which a quorum was present, by a vote of six (6) in favor, one (1) opposed, zero (0) abstentions, and zero (0) absent as recorded by this roll call.

	In Favor	Opposed	Abstained	Absent
George Anthony	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Gerald Chingwa	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Fred Harrington, Jr.	<u> </u>	<u> x </u>	<u> </u>	<u> </u>
Beatrice Law	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Rita Shananaquet	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Janet Shomin	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Alice Yellowbank	<u> x </u>	<u> / </u>	<u> </u>	<u> </u> /

Date: 9/13/02

Gerald Chingwa, Tribal Chairman,

Fred Harrington, Jr., Tribal Secretary