

WAGANAKISING ODAWAK STATUTE # 2021-~~005~~

AMENDMENT TO WAGANAKISING ODAWAK STATUTE # 2021-003  
INTERIM CRIMINAL CODE

SECTION I. REPEALS AND REPLACES

A. REPEAL of Amendment WOS 2019-007, and WOS 2021-003 SECTION VII.  
Criminal Offenses

OFFENSES (TLOC 9.107)

Controlled Substances.

1. Possession, Use, Sale, Manufacture and/or Distribution.

a. **Offense.** It shall be unlawful for any person to possess, use, sell, manufacture and/or distribute any controlled substance defined and/or described in the Uniform Controlled Substances Act, 21 U.S.C. Section 812, as updated, without prior authorization.

b. **Sentence.** Any person convicted of this offense may be sentenced to a jail term not to exceed one year or to pay a fine not to exceed five thousand dollars (\$5,000.00) or to both.

P. Controlled Substances

1. Possession, Use, Sale, Manufacture and/or Distribution.

a. **Offense.** It shall be unlawful for any person to possess, use, sell, manufacture and/or distribute any controlled substance defined and/or described in the Uniform Controlled Substances Act, 21 U.S.C. Section 812, as updated, without prior authorization, with the exception of Marihuana (Marijuana) with the following prohibitions:

- i. No person shall transfer of marihuana or marihuana accessories to a person under the age of 21.



- ii. No person under the age of 21 shall possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana.
- iii. No person shall possess more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area, except that not more than 15 grams of marihuana may be in the form of marihuana concentrate; within the person's residence, possessing, storing, and processing not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that no more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once.
- iv. No person shall consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoking marihuana within the passenger area of a vehicle upon a public way.
- v. No person shall operate, navigate, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana.
- vi. No person shall consume marihuana in a public place or smoke marihuana where prohibited by the person who owns, occupies, or manages the property, except for purposes of this subdivision a public place does not include an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age.
- vii. No person shall possess marihuana accessories or possessing or consuming marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility.
- viii. No person shall separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100



degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.

- ix. No person shall cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area.

**b. Sentence.** Any person convicted of this offense may be sentenced to a jail term not to exceed one year or to pay a fine not to exceed five thousand dollars (\$5,000.00) or to both.

**B. REPLACE.**

**OFFENSES (TLOC 9.107)**

**P. Controlled Substances**

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**1. Possession, Use, Sale, Manufacture and/or Distribution.**

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- x. No person shall transfer of marihuana or marihuana accessories to a person under the age of 21.
- xi. No person under the age of 21 shall possess, consume, purchase or otherwise obtain, cultivate, process, transport, or sell marihuana.
- xii. No person shall possess more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the contents of the container or area,



except that not more than 15 grams of marihuana may be in the form of marihuana concentrate; within the person's residence, possessing, storing, and processing not more than 10 ounces of marihuana and any marihuana produced by marihuana plants cultivated on the premises and cultivating not more than 12 marihuana plants for personal use, provided that no more than 12 marihuana plants are possessed, cultivated, or processed on the premises at once.

- xiii. No person shall consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat, or smoking marihuana within the passenger area of a vehicle upon a public way.
- xiv. No person shall operate, navigate, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat while under the influence of marihuana.
- xv. No person shall consume marihuana in a public place or smoke marihuana where prohibited by the person who owns, occupies, or manages the property, except for purposes of this subdivision a public place does not include an area designated for consumption within a municipality that has authorized consumption in designated areas that are not accessible to persons under 21 years of age.
- xvi. No person shall possess marihuana accessories or possessing or consuming marihuana on the grounds of a public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility.
- xvii. No person shall separation of plant resin by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of any residential structure.
- xviii. No person shall cultivate marihuana plants if the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area.



**b. Sentence.** Any person convicted of this offense may be sentenced to a jail term not to exceed one year or to pay a fine not to exceed five thousand dollars (\$5,000.00) or to both.

## **SECTION II. EFFECTIVE DATE**

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.



## CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians by phone poll of the Tribal Council held on May 11, 2021 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	x			
Fred Kiogima	x			
Tamara Kiogima	x			
Melissa Pamp	x			
Leroy Shomin	x			
Marty Van De Car	x			
Marcella Reyes	x			
Julie Shananaquet				x
Emily Proctor	x			

Date: 5/11/2021 *Emily Proctor*  
 Emily Proctor, Legislative Leader

Date: 5/11/2021 *Julie Shananaquet*  
 Julie Shananaquet, Tribal Council Secretary

Received by the Executive Office on 5/11/2021 by *[Signature]*

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 5/11/2021 *Regina Gasco Bentley*  
 Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on 5/14/2021 by *[Signature]*