

1 **WAGANAKISING ODAWAK STATUTE # 2021-###**

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

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7 **SECTION I. REPEALS AND REPLACES**

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

11
12 **OFFENSES (TLOC 9.107)**

13
14 **P. Controlled Substances**

15
16 1. Possession, Use, Sale, Manufacture and/or Distribution.
17 **a. Offense.** It shall be unlawful for any person to possess, use, sell,
18 manufacture and/or distribute any controlled substance defined and/or
19 described in the Uniform Controlled Substances Act, 21 U.S.C. Section
20 812, as updated, without prior authorization, with the exception of
21 Marihuana (Marijuana) with the following prohibitions:

- 22
23 i. No person shall transfer of marihuana or marihuana accessories to a
24 person under the age of 21.
25 ii. No person under the age of 21 shall possess, consume, purchase or
26 otherwise obtain, cultivate, process, transport, or sell marihuana.
27 iii. No person shall possess more than 2.5 ounces of marihuana within a
28 person's place of residence unless the excess marihuana is stored in a
29 container or area equipped with locks or other functioning security
30 devices that restrict access to the contents of the container or area,
31 except that not more than 15 grams of marihuana may be in the form
32 of marihuana concentrate; within the person's residence, possessing,
33 storing, and processing not more than 10 ounces of marihuana and any
34 marihuana produced by marihuana plants cultivated on the premises
35 and cultivating not more than 12 marihuana plants for personal use,

1 provided that no more than 12 marihuana plants are possessed,
2 cultivated, or processed on the premises at once.

- 3 iv. No person shall consume marihuana while operating, navigating, or
4 being in physical control of any motor vehicle, aircraft, snowmobile,
5 off-road recreational vehicle, or motorboat, or smoking marihuana
6 within the passenger area of a vehicle upon a public way.
- 7 v. No person shall operate, navigate, or being in physical control of any
8 motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or
9 motorboat while under the influence of marihuana.
- 10 vi. No person shall consume marihuana in a public place or smoke
11 marihuana where prohibited by the person who owns, occupies, or
12 manages the property, except for purposes of this subdivision a public
13 place does not include an area designated for consumption within a
14 municipality that has authorized consumption in designated areas that
15 are not accessible to persons under 21 years of age.
- 16 vii. No person shall possess marihuana accessories or possessing or
17 consuming marihuana on the grounds of a public or private school
18 where children attend classes in preschool programs, kindergarten
19 programs, or grades 1 through 12, in a school bus, or on the grounds of
20 any correctional facility.
- 21 viii. No person shall separation of plant resin by butane extraction or
22 another method that utilizes a substance with a flashpoint below 100
23 degrees Fahrenheit in any public place, motor vehicle, or within the
24 curtilage of any residential structure.
- 25 ix. No person shall cultivate marihuana plants if the plants are visible
26 from a public place without the use of binoculars, aircraft, or other
27 optical aids or outside of an enclosed area equipped with locks or other
28 functioning security devices that restrict access to the area.

29
30 **b. Sentence.** Any person convicted of this offense may be sentenced to a
31 jail term not to exceed one year or to pay a fine not to exceed five
32 thousand dollars (\$5,000.00) or to both.

1 **B. REPLACE.**

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3 **OFFENSES (TLOC 9.107)**

4
5 **P. Controlled Substances**

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

8 **a. Offense.** It shall be unlawful for any person to possess, use, sell,
9 manufacture and/or distribute any controlled substance defined and/or
10 described in the Uniform Controlled Substances Act, 21 U.S.C. Section
11 812, as updated, without prior authorization, with the exception of
12 Marihuana (Marijuana) with the following prohibitions:

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- 14 x. No person shall transfer of marihuana or marihuana accessories to a
15 person under the age of 21.
 - 16 xi. No person under the age of 21 shall possess, consume, purchase or
17 otherwise obtain, cultivate, process, transport, or sell marihuana.
 - 18 xii. No person shall possess more than 2.5 ounces of marihuana within a
19 person's place of residence unless the excess marihuana is stored in a
20 container or area equipped with locks or other functioning security
21 devices that restrict access to the contents of the container or area,
22 except that not more than 15 grams of marihuana may be in the form
23 of marihuana concentrate; within the person's residence, possessing,
24 storing, and processing not more than 10 ounces of marihuana and any
25 marihuana produced by marihuana plants cultivated on the premises
26 and cultivating not more than 12 marihuana plants for personal use,
27 provided that no more than 12 marihuana plants are possessed,
28 cultivated, or processed on the premises at once, without a valid
29 license of permit issued by the Tribe or another competent jurisdiction.
 - 30 xiii. No person shall consume marihuana while operating, navigating, or
31 being in physical control of any motor vehicle, aircraft, snowmobile,
32 off-road recreational vehicle, or motorboat, or smoking marihuana
33 within the passenger area of a vehicle upon a public way.

- 1 xiv. No person shall operate, navigate, or being in physical control of any
2 motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or
3 motorboat while under the influence of marihuana.
- 4 xv. No person shall consume marihuana in a public place or smoke
5 marihuana where prohibited by the person who owns, occupies, or
6 manages the property, except for purposes of this subdivision a public
7 place does not include an area designated for consumption and there is
8 a valid permit or license issued by the Tribe or another competent
9 jurisdiction that has authorized consumption in the designated area,
10 and the area is not accessible to persons under 21 years of age.
- 11 xvi. No person shall possess marihuana accessories or possessing or
12 consuming marihuana on the grounds of a public or private school
13 where children attend classes in preschool programs, kindergarten
14 programs, or grades 1 through 12, in a school bus, or on the grounds of
15 any correctional facility.
- 16 xvii. No person shall separation of plant resin by butane extraction or
17 another method that utilizes a substance with a flashpoint below 100
18 degrees Fahrenheit in any public place, motor vehicle, or within the
19 curtilage of any residential structure.
- 20 xviii. No person shall cultivate marihuana plants if the plants are visible
21 from a public place without the use of binoculars, aircraft, or other
22 optical aids or outside of an enclosed area equipped with locks or other
23 functioning security devices that restrict access to the area.

24
25 **b. Sentence.** Any person convicted of this offense may be sentenced to a
26 jail term not to exceed one year or to pay a fine not to exceed five
27 thousand dollars (\$5,000.00) or to both.

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30 **SECTION II. EFFECTIVE DATE**

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

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CERTIFICATION