

WAGANAKISING ODAWAK STATUTE #202419-____
TRIBAL HISTORIC PRESERVATION OFFICE STATUTE

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SECTION I. PURPOSE

The purpose of this Statute is to establish the Tribal Historic Preservation Office to preserve and protect historic and cultural resources of significance to (THPO) the Little Traverse Bay Bands of Odawa Indians, that assumes the duties under National Historic Preservation Act of 1966, as amended (NHPA) within the exterior boundaries of the Little Traverse Bay Bands of Odawa Indians (LTBB) reservation; and fulfills the duties of the Native American Graves Protection and Repatriation Act (NAGPRA) representative(s); and such others as duties and functions as designated by Tribal Council. This Statute repeals and replaces Waganakising Odawak Statute 20198-006,22 Tribal Historic Preservation Office Protection and Management of Archaeological, Historical and Cultural Properties and Cultural Resources, 2014-013, 2013-002, and any and all previous Statutes.

SECTION II. ABROGATION AND GREATER RESTRICTIONS

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Where this Statute imposes greater restrictions than those contained in relevant Federal Laws and Regulations, this Statute shall govern.

Other Federal laws and regulations that apply to Tribal Lands administered by the Bureau of Indian Affairs, but may be superseded by this Statute include: National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. 470(1988); Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469; National Environmental Policy Act (NEPA), 42 U.S.C. 4321 (1988); 36 C.F.R. Part 800: Protection of Historic Properties; American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996 (1988); Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), 25 U.S.C. 3001; Archaeological Resources Protection Act of 1979, as amended (ARPA), 16 U.S.C. 470; and Executive Order 13007.

This Statute shall not affect the application of separate actions occurring under State or Federal laws.

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2 **SECTION III. — APPLICABILITY**

3
4 ~~This Statute shall apply to all individuals, activities, and property, whether free or in trust, within~~
5 ~~the exterior boundaries of the Little Traverse Bay Bands of Odawa Indians Reservation.~~

6
7
8 **SECTION IV. — DEFINITIONS**

9
10 **A.** “Ancestral Remains” means Tribal ancestral remains or Native American remains along with
11 any funerary objects.

12 ~~“BIA MAO” means the Bureau of Indian Affairs Minneapolis Area Office.~~

13
14
15 **B.** ~~“Burial Site”~~ means any place of interment, by any means, natural or a physically prepared
16 location, whether originally below, on, or above the surface of the earth, where human remains or
17 associated funerary objects are deposited, as part of the death rites of ceremonies of a culture.

18
19 **C.** “Consultant” means ~~an individual or entity~~ individuals with ~~expertise qualifications that~~ who
20 meet ~~or exceed applicable~~ the United States, Department of ~~the~~ Interior Secretary's Standards.

21
22 **C.D.** ~~“Cultural Resources”~~ means objects and sites with historical, traditional, religious, ceremonial
23 ~~or cultural importance.~~

24
25 **D.E.** ~~“Funerary Objects”~~ means objects, that as a part of the death rite or ceremony ~~of a culture,~~
26 are reasonably believed to have been placed with individual human remains either at the time of
27 death or later.

28 **E.** ~~“Historic Preservation”~~ means the research, protection, restoration, and rehabilitation of
29 ~~historic properties and resources.~~

30
31 **F.** ~~“Historic Resources”~~ means any prehistoric or historic sites, districts, structures or objects
32 ~~that are significant to the Tribe’s past, architecture, archeology, culture or spiritual nature.~~

33
34 **G.** ~~“Human Remains”~~ ~~mean~~ include any part of a deceased human being in any state of
35 decomposition, including the surrounding soil immediately within and adjacent to the burial.

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1 G.

2
3 H. "Preservation" means the research, protection, restoration and rehabilitation of historic
4 and/or cultural resources.

5
6 H. "Reservation" means all lands within the boundaries of the Reservations for the Little
7 Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty
8 of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28,
9 1836, 7 Stat. 491, in the event that the 1836 Reservation is determined to include lands which are not
10 included within the 1855 Reservation, plus any lands outside of those boundaries which are now or in
11 the future declared to be Little Traverse Bay Bands of Odawa Indians Reservation by the U.S.
12 Department of the Interior.

13 I.

14
15 I. "Sacred Site" means any specific, discrete, narrowly delineated location that is identified as
16 sacred by virtue of its established religious significance or ceremonial use.

17 I. "Land and Reservation Committee" means the standing Committee of Tribal Council.

18 J.

19 K. "NAGPRA" means the Native American Graves Protection and Repatriation Act (as amended).

20 L.

21 M. "Reservation" means all lands within the boundaries of the Reservations for the Little
22 Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty
23 of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28,
24 1836, 7 Stat. 491, in the event that the 1836 Reservation is determined to include lands which are not
25 included within the 1855 Reservation, plus any lands outside of those boundaries which are now or in
26 the future declared to be Little Traverse Bay Bands of Odawa Indians Reservation by the U.S.
27 Department of the Interior.

28
29 N. "Territorial Jurisdiction" means all land that is held in trust by the United States government
30 for the benefit of the Tribe

31 O.K. "Secretary" means the United States, Department of Interior Secretary.

32
33 P.L. "THPO" means the Tribal Historic Preservation Office composed of the Tribal Historic
34 Preservation Officer and staff.

35

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1 **Q.M.** ~~“Tribal Citizen”~~ means a person enrolled with the Tribe.

2
3 ~~“Tribal Culturally Significant Sites” means sites that are currently or in the past used by the Tribe or its~~
4 ~~Tribal Citizens for gathering of medicines, conducting ceremonies or other tribal activities; or the site~~
5 ~~is associated with the cultural practices or beliefs of a Tribal community; or the site is closely tied to~~
6 ~~the cultural identity of the community.~~

7
8 ~~“Tribal Historic Properties” means any prehistoric or historic sites, districts, structures, or objects that~~
9 ~~are significant to the prehistory, history, architecture, archeology, culture, or spiritual nature of the~~
10 ~~Tribe,~~

11
12 ~~“Tribal Sacred Site” means any specific, discrete, narrowly delineated location that is identified as~~
13 ~~sacred by virtue of its established religious significance or ceremonial use.~~

14
15 **R.N.** ~~“Tribe”~~ means the Little Traverse Bay Bands of Odawa Indians.

16
17 **S.** ~~“Undertaking”~~ ~~means~~ ~~includes~~ any project, activity, or program and any of its elements that
18 may have ~~the~~ potential to affect an historic property, burial site, human remains, sacred site, or
19 traditional cultural property and includes construction, rehabilitation, planning, repair projects, land
20 clearing, licenses, and permits for buildings, roads and development.

21 **T.O.**

22
23 **SECTION IIIV. TRIBAL HISTORIC PRESERVATION OFFICE DUTIES ~~AND AUTHORITY~~**

24
25 **A.** ~~A Tribal Historic Preservation Office (THPO)~~ shall be established ~~within the~~ ~~as an~~
26 ~~Executive/Legislative~~ Branch ~~department~~ to ~~further the Tribe’s sovereign interests in the protection of~~
27 ~~its historic and cultural resources.~~

28
29 **A.B.** ~~increase efforts in locating, documenting, and evaluating historic properties. This information~~
30 ~~shall provide a record of the past for future generations and a copy of the record shall be housed with~~
31 ~~the Department of Repatriation, Archives and Records.~~ ~~The THPO shall have the following duties:~~
32 ~~Information on historic properties recorded in the ceded territory shall also be collected, evaluated,~~
33 ~~and recorded, and the THPO shall have the following duties:~~

- 34
35
 1. ~~House the Tribal Historic Preservation Officer, who shall serve as the designated~~

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1 preservation official for the Little Traverse Bay Bands of Odawa Indians under, and fulfill all
2 duties required by or authorized pursuant to, the National Historic Preservation Act. In the
3 event of absence or unavailability of the Tribal Historic Preservation Officer, the Chairperson
4 may designate an interim Tribal Historic Preservation Officer.

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5
6 2. Serve as the Tribe's representative for purposes of the Native American Graves
7 Protection and Repatriation Act, Michigan Anishinabek Cultural Preservation & Repatriation
8 Alliance, intergovernmental consultations regarding the Tribe's historic and/or cultural
9 resources, and in all other related capacities.

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10
11 3. Monitor all activities that have the potential to impact historic and cultural resources
12 of importance to the Tribe within the Tribe's territorial jurisdiction, Reservation and ceded
13 lands, and use all authorities, rights and consultation opportunities conferred by law to
14 maximize the protection of those resources.

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15
16 4. In cooperation with Federal and State agencies, local governments, and private
17 organizations and individuals, direct, conduct and maintain a comprehensive inventory of the
18 Tribe's historical and cultural properties, regardless of ownership and location. Tribal-wide
19 survey of historic properties and maintain inventories of such properties within the exterior
20 boundaries of the Tribe's reservation and shall maintain the system for the survey and
21 inventory of historic properties.

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22
23 5. Identify and, with Tribal Council approval, nominate eligible properties for listing on
24 the National Register.

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25
26 6. Establish and maintain the Odawa Historic and Cultural Site Registries in accordance
27 with applicable laws.

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28
29 7. Provide public information, education, training, and technical assistance in historic
30 preservation.

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31
32 8. Provide advice to Advise the Tribal Chairperson and the Tribal Council on repatriation
33 and the protection of traditional cultural properties cultural resources, historic resources, and
34 sacred sites.

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1 ~~1. Share information as appropriate regarding repatriation of ancestral remains and~~
2 ~~protection of traditional cultural properties with the Tribal Community and Citizens.~~

3 ~~9.~~

4
5 ~~2.10. Retain staff necessary to fulfill the duties above, provided all THPO staff shall be~~
6 ~~Citizens of the Little Traverse Bay Bands of Odawa Indians.~~

7 ~~With Tribal Council approval via the Land and Reservation Committee, the THPO shall identify and~~
8 ~~nominate eligible properties to the National Register, and otherwise submit applications for listing~~
9 ~~historic properties on the National Register;~~

10
11 ~~Establish and maintain the Odawa Historic and Cultural Site Registries in accordance with applicable~~
12 ~~laws.~~

13
14 ~~Prepare and implement a comprehensive Tribal-wide historic preservation plan;~~

15
16 ~~The THPO shall administer Federal assistance funds received by the Tribe for Historic Preservation~~
17 ~~activities;~~

18
19 ~~Advise and assist, as appropriate, Federal and State agencies and local governments in carrying out~~
20 ~~their historic preservation responsibilities;~~

21
22 ~~Cooperate with the LTBB Tribe, Secretary, the Advisory Council on Historic Preservation, and other~~
23 ~~Tribal, Federal and State agencies, local governments, and organizations and individuals to ensure that~~
24 ~~historic properties are taken into consideration at all levels of planning and development;~~

25
26 ~~Provide public information, education, and training, and technical assistance in historic preservation;~~

27
28 ~~Consult with the appropriate Federal agencies in accordance with the National Historic Preservation~~
29 ~~Act on (i) Federal undertakings that may affect historic properties; and (ii) the content and~~
30 ~~sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such~~
31 ~~properties; and Advise and assist in the evaluation of proposals for rehabilitation projects that may~~
32 ~~qualify for Federal assistance;~~

33
34 ~~The THPO shall provide a report to the Tribal Council monthly or as requested by Tribal Council;~~
35

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~~The THPO will hold public hearings to gather information from the Tribal Community and Citizens; and provides for adequate public participation in the THPO program, including the process of recommending properties for nomination to the National Register; and~~

~~The THPO may share information regarding repatriation of remains and protection of traditional cultural properties the Tribal Community and Citizens.~~

~~The THPO shall assume responsibility under 16 U.S.C. 470a section 101 (d) 6 and in cooperation with the State Historic Preservation Officer, determine and recommend properties for inclusion on the National Register, properties that are of traditional, religious/spiritual and cultural importance to the Tribe.~~

~~The THPO shall assume responsibility under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C 306108.~~

~~**B.C.** The Department of Repatriation, Archives and Records shall retain copies of all THPO records in perpetuity, be the permanent repository for cultural materials discovered on Tribal and allotted lands in the Tribe's possession and control. Access to the use of collections for educational and research purposes, shall be controlled by the Department.~~

~~**1.** The THPO may uOffice may utilize consultants, as needed, who meet the Secretary's Standards.~~

~~**2.D.** have the requisite qualifications under federal law.~~

~~**SECTION VI. MACPRA and NAGPRA DUTIES.**~~

~~The THPO shall be the Tribe's representative to Inter-tribal organizations.~~

~~The THPO shall be the designated NAGPRA representative of the Tribe.~~

~~The THPO may provide advice to Tribal Council on repatriation and protection of traditional cultural properties.~~

~~**SECTION VII. STAFFING**~~

~~Tribal Historic Preservation Office (THPO) shall continue operations with existing staff. If a Tribal~~

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1 ~~Historic Preservation Office position is designated or created, this position will be filled with a Tribal~~
2 ~~Citizen.~~

3
4
5 **SECTION ~~IV~~IVIII. BURIAL SITES AND TREATMENT OF HUMAN REMAINS**

6
7 ~~The graves of Odawa people and their ancestors are sacred and shall not be excavated or disturbed.~~
8 ~~Within the Tribe’s territorial jurisdiction:~~

9
10 **A.** No individual shall knowingly excavate or damage a burial site, human remains or funerary
11 objects. No individual shall intentionally cause or permit the disturbance of a burial site or established
12 buffer zone surrounding a burial site. Further, an individual shall immediately notify the ~~Tribal~~
13 ~~Historic Preservation Office~~THPO if the person knows of or has reasonable grounds to believe that a
14 burial site or established buffer zone is being disturbed contrary to this ~~sub chapter~~section.

15
16 **B.** Only in ~~an~~the extreme cases of unavoidable destruction, natural exposure or accidental
17 discovery shall burial sites, human remains or funerary objects be approved for intentional
18 disturbance. When disturbance is found to be necessary, or has already occurred, the ~~Tribal Historic~~
19 ~~Preservation Office~~THPO will agree to a procedure in writing by which the disturbance shall be
20 mitigated.

21
22 **C.** At all times during the process of disturbing any human remains, the ~~Tribal Historic~~
23 ~~Preservation Office or his or her designee~~THPO shall be on hand to assist and ensure that the parties
24 employed to remove or expose any human remains or grave goods implement the written procedure
25 as previously agreed upon.

26
27 **D.** No ~~g~~Scientific ~~a~~Analysis or ~~r~~Reburial will occur unless ~~agreed upon by the Tribal Historic~~
28 ~~Preservation Office~~the THPO provides prior written consent.

29
30
31 **SECTION ~~V~~VIX. PERMITS TO PROCEED WITH AN UNDERTAKING ~~ON LAND WITHIN~~**
32 **~~THE RESERVATION~~**

33
34 ~~Within the Tribe’s territorial jurisdiction:~~

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1 A. The ~~Tribal Historic Preservation Office~~THPO is responsible for the issuance of "Permits to
2 Proceed with an Undertaking ~~on Lands within the Reservation~~" as delineated within this Statute.

3
4 B. Prior to beginning any undertaking ~~on land within the Reservation~~, all participating
5 individuals shall have a signed Permit to Proceed from the ~~Tribal Historic Preservation Office~~THPO.

6
7 C. Procedures for Obtaining a Permit to Proceed.

8
9 1. Submission of Application for Permit to Proceed. During the planning stage of all
10 undertakings ~~on land within the Reservation~~, all participating individuals shall complete and
11 submit an application for a Permit to Proceed. Permits to Proceed can only be issued by the
12 THPO. The THPO shall review the application, and determine, following a review of the THPO
13 files covering that area, if a field investigation will be required. The THPO shall notify the
14 applicant in writing within thirty (30) days if a field investigation is required. If no field
15 investigation is required, the THPO shall either issue the Permit to Proceed or notify the
16 applicant in writing of the reason for Permit denial.

17
18 2. Field Investigation. All areas ~~within the Reservation boundaries~~ that will undergo
19 earth disturbing activities, not specifically excluded, and not previously subjected to a field
20 investigation, shall be subject to a review process to determine the presence or absence of
21 historic properties, burial sites, sacred sites or traditional cultural properties. The review
22 consists of the following:

23
24 a. File Search and Pre-Field Investigation. THPO staff will check files and maps
25 recording the locations of identified historic properties, burial sites, sacred sites and
26 traditional cultural properties, as well as the locations of areas previously investigated.
27 Additional information may be sought from Tribal Elders and other individuals if
28 deemed necessary in areas identified as highly sensitive.

29
30 b. Field Archeology Investigation. The project area presented in the Permit
31 application, if applicable, may be investigated by a qualified archaeologist to
32 record and describe any historic properties.

33
34 3. Permit Contingencies. Based upon the results of the investigations, the THPO ~~will~~
35 ~~determine whether or not a Permit to Proceed will be granted and shall make a~~

1 ~~recommendation to Tribal Council via the Land and Reservation Committee. Within twenty-~~
2 ~~one (21) days of the completion of the investigations and with Tribal Council approval, the~~
3 ~~THPO shall issue one of the following:~~

- 4
- 5 a. A Permit to Proceed with no contingencies.
- 6
- 7 b. A Permit to Proceed with contingencies.
- 8

9 ~~1. A letter denying the Permit to Proceed, stating that the project may not~~
10 ~~proceed according to the plans presented by the applicant. The applicant may submit~~
11 ~~a new application based upon changes made in consultation with the THPO that,~~
12 ~~which would eliminate or minimize any impacts to historic properties.~~

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13 ~~2.~~
14 ~~3.c. Appeal of Denied Permits to Proceed. An applicant may appeal any denied~~
15 ~~Permits by requesting a hearing before Tribal Council. The request must be made in~~
16 ~~writing within fourteen (14) days of the Permit denial. A determination from Tribal~~
17 ~~Council shall be final.~~

18

19 ~~D. Activities Lands within the Reservation, Excluded from Pre-Field and Field Archeology~~
20 ~~Investigations. The THPO may permit the following areas to be excluded from field archeology~~
21 ~~investigations:~~

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22

23 1. ~~The THPO may exclude the following a~~ Activities ~~that are excluded~~ from pre-field
24 and field investigations:

25

26 a. Gardening ~~, in general,~~ in pre-existing gardens ~~and , or~~ new garden
27 construction;

28

29 b. Projects less than one (1) square meter in size ~~, (e.g.i.e.)~~ digging postholes,
30 planting trees, ~~bushes,~~ etc.;

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31

32 c. Maintenance activities ~~including but not limited to,~~ ~~e.g.~~ basic road
33 maintenance, grading ~~etc snowplowing;~~

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35 d. ~~Activities in~~ areas that have previously undergone an archaeological survey

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and ~~that were has been~~ permitted with no contingencies;

e. Projects that will not have ground-disturbing affects, ~~;~~ ~~i.e.e.g. lawn~~ mowing ~~lawn~~, winter logging activity on frozen ground, ~~etc.~~

2. ~~Activities that, at the discretion of the THPO,~~ The THPO may ~~exclude activities in the following areas~~ ~~be excluded~~ from field archeology investigations, but may require a pre-field archaeological investigation:

a. Swampy areas or areas with mucky soils;

b. Locations directly on steep slopes ~~that which~~ would prohibit construction of historic or prehistoric dwellings or settlements;

c. Areas already disturbed by a depth of greater than three (3) feet, ~~e.g. gravel pits;~~ ~~i.e. Gravel pits;~~

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d. ~~Areas that must be disturbed in response to e~~Emergency situations, ~~e.g. septic contamination, oil spill, etc. (septic replacement, etc.);~~

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e. Hazardous ~~arease~~ ~~conditions~~ that jeopardize the safety of THPO staff or individuals.

E. Payment for Field Archaeological Surveys ~~of Tribal Lands leased by Tribal Citizens.~~ The Tribe shall pay for required field archaeological surveys ~~required to be performed by~~ ~~of Tribal Citizens~~ ~~in their individual capacity.~~ All other surveys, including projects receiving funding from Federal agencies and other entities shall not be paid for by the Tribe ~~without the prior written approval of the Tribal Chair;~~ ~~unless, otherwise and previously approved by Tribal Council.~~

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SECTION ~~VIX.~~ PERMITS TO CONDUCT ARCHAEOLOGICAL INVESTIGATIONS

Within the Tribe's territorial jurisdiction:

A. ~~Qualified Archaeologist Requirement. No person may conduct archaeological investigations or~~

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1 ~~excavate and/or remove archaeological materials from historic properties unless that individual~~
2 ~~meets the U.S. Department Secretary of the Interior’s professional qualification standards for an~~
3 ~~archaeologist.~~

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4
5 ~~A.B.~~ Tribal Permit to Conduct Archaeological Investigations. ~~Any qualified archaeologist~~
6 ~~individuals intending wishing~~ to conduct archaeological investigations or ~~engaging in the excavation~~
7 ~~or removal of to excavate or remove~~ archaeological materials from historic properties ~~on lands within~~
8 ~~the reservation~~ must ~~obtain~~ have a "Permit to Conduct Archaeological Investigations" ~~approved by~~
9 ~~Tribal Council via the Land and Reservation Committee, signed~~ issued by the THPO ~~before~~
10 ~~commencing work, and must satisfy the requirements of a qualified archaeologist.~~

11
12 ~~1. Federal Permit~~ Permits for Non-Tribal Citizens. ~~In addition to obtaining a Permit to Conduct~~
13 ~~Archaeological Investigations from the THPO pursuant to the preceding subsection, a~~ Any qualified
14 ~~archaeologist individual who is not an enrolled Tribal Citizen must also obtain a federal permit as~~
15 ~~required by 25 C.F.R. 262 before commencing an~~ intending to conduct archaeological investigations or
16 ~~engaging in excavation or removal of the excavation or removal of~~ archaeological materials from
17 historic properties ~~on Federal, Tribal or allotted lands, that is not an enrolled Tribal Citizen, must have~~
18 ~~a valid ARPA Permit approved by Tribal Council via the Land and Reservation Committee, signed by~~
19 ~~the Area Director of the BIA MOA as required in 25 C.F.R. 262.4. This permit is in addition to the~~
20 ~~Permit required by the Tribe.~~

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21 ~~2.~~
22 ~~3. Permits to Conduct Field Archeology on State Land within the Exterior Boundaries of the~~
23 ~~Reservation. Any individual wishing to conduct field archeology on State land within the exterior~~
24 ~~boundaries of the Reservation shall in addition to the requirements under this Statute, contact the~~
25 ~~Office of the State Archaeologist of Michigan to determine the need and process of applying for a~~
26 ~~State permit or license to conduct field archeology as encouraged in State Statute 1710.19. This~~
27 ~~permit is in addition to the Permit required by the Tribe.~~

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28 ~~4.~~
29 ~~5. Requirements of Qualified Archaeologist. Archaeological surveys shall be conducted by an~~
30 ~~archaeologist meeting the Department of Interior's Standards for Archaeologists.~~

31 ~~6.C.~~

32
33 SECTION ~~VIXI.~~ ENFORCEMENT OF PENALTIES

34
35 ~~Enforcement by Duly Authorized Law Enforcement Officer.~~

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A. ~~Any~~The duly authorized Law Enforcement Officer shall have the responsibility and authority to ~~issue citations for violations and otherwise~~ enforce ~~the terms of and implement the provisions of~~ this Statute, ~~which includes the issuance of citations.~~

B. Criminal Penalties. Any person who violates, counsels, procures, solicits, or employs any other person to violate any prohibition, or fails to follow the above stated procedures, shall, upon conviction, be fined an amount not to exceed \$1,000.00 or imprisoned for a term not to exceed twelve (12) months, or both. Such person may also be subject to the civil penalties provided for in this Statute. ~~Criminal penalties shall also apply in Tribal Court.~~

C. Civil Penalties. Any person violating the provisions of this chapter commits a civil infraction punishable by fine and/or exclusion from the Reservation. The infraction shall be punishable by a fine not to exceed \$1,000.00. The Tribal Court shall hear the trial of any such infraction and the prosecution shall have the burden of proving the alleged infraction by a preponderance of the evidence. Penalties cannot be suspended or waived.

~~1.~~ Civil Damages. Any person violating the provisions of this chapter shall be liable to the Tribe for civil damages to be assessed by the Tribal Court after the hearing. "Civil Damages" shall be interpreted liberally by the Tribal Court to include, but not ~~be~~ limited to, the following:

D.

~~1.~~ 1. Costs of restoration of the damaged site.

~~a.~~ 2.

~~b.~~

~~c.~~ 3. ~~Costs associated with the enforcement of the provisions of this Chapter~~Enforcement costs.

~~d.~~ 4. Costs associated with mitigation of protected historic properties, burial sites, sacred sites or traditional cultural properties, including reburial.

~~e.~~ 5. Costs associated with documentation, testing, and evaluating the damaged site in order to assess the character of the site.

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2 **D.E.** Forfeiture of Contraband. All remains from historic properties, burial sites, sacred sites, or
3 traditional cultural properties obtained in violation of the provisions of this [Chapter Statute](#) shall be
4 deemed contraband and forfeited to the Tribe after a hearing in the Tribal Court.

5
6 **E.F.** Seizure of Security. At the discretion of the duly appointed Law Enforcement Officer, the
7 Officer shall seize such property in the possession of the defendant as the Officer deems reasonably
8 necessary to secure payment of any fine or civil damages ~~that(s), which~~ may be levied upon the
9 defendant upon conviction of the infraction or crime. The Officer shall further advise the defendant of
10 his/her right to post security.

11
12
13 **SECTION [VIXII](#). SEVERABILITY**

14
15 If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held
16 invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a
17 separate, distinct and independent provision and such holding shall not affect the validity of the
18 remaining portions thereof.

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21 **SECTION [IXXIII](#). EFFECTIVE DATE**

22
23 Effective upon signature of the Executive or thirty (30) days from Tribal Council approval, whichever
24 comes first, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

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27 **~~SECTION XIV. OTHER RELATED STATUTES~~**

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29 ~~[See Odawa Historic and Cultural Site Registry, as may be amended.](#)~~
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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 at a regular meeting of the Tribal Council held on May 23, 2019 at which a quorum was present, by a vote of 7 in favor, 1 opposed, 0 abstentions, and 1 absent as recorded by this roll call:~~

	In Favor	Opposed	Abstained	Absent
Frank Bernard	X			
David Harrington	X			
Dexter McNamara	X			

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Secretary Emily Proctor
Secretary Kiogima

