

**WAGANAKISING ODAWAK STATUTE 2003-001
SOLID WASTE DISPOSAL**

SECTION I. INTRODUCTION/ PURPOSE

The Little Traverse Bay Bands of Odawa Indians recognizes that unsanitary, inefficient, and inappropriate methods of disposal of solid waste have an adverse impact upon the environment and the natural resources of the Little Traverse Bay Bands of Odawa Indians and its citizens, and the promulgation of standards of solid waste disposal and recycling are in the best interests of the Little Traverse Bay Bands of Odawa Indians people. Accordingly, the purposes of this Statute are to promote the health, safety and welfare of the Little Traverse Bay Bands of Odawa Indians' members and all others within LTBB's jurisdiction through the establishment of standards necessary to the sanitary and environmentally sound disposal of solid waste.

SECTION II. DEFINITIONS

- A. "Brush" means cut or broken branches.
- B. "Campfire" means small fire of not more than 3.5 ft. in diameter which has been contained in a pit, or metal or masonry burner. Used for cooking, warmth or recreation.
- C. "Collection Site" means any place designated by the Tribal Council or Natural Resource Department as the site where solid waste may be presented for disposal including transfer stations.
- D. "Collector" means any natural or legal person, that person's employees and agents, who gather solid waste from another person.
- E. "Commercial Grade Waste Wood" means any wood of commercial nature that has been treated, stained, painted, tarred, shingled, or glued.
- F. "Garbage" means all putrescible (decayable) wastes, including animal and vegetable matter, animal offal and carcasses and recognizable industrial by-products, but excluding sewage and animal wastes.

- G.** “Garbage Pits” means holes, pits and or depressions in the normal topography created for the sole purpose of depositing and/or placing garbage and refuse as a means of disposal.
- H.** “Hazardous Solid Waste” means any solid waste defined as hazardous by the Environmental Protection Agency under the provisions of the Resource and Conservation Act of 1976, as amended, and includes but is not limited to, explosives, pathological wastes, pesticides, chemicals, and other toxic materials, which are harmful to public health.
- I.** “Non-recyclable Waste” means all solid waste not listed in Subsection (O) of this section, excluding hazardous waste.
- J.** “Open Burning” means any fire wherein the products of combustion are emitted directly into the atmosphere and are not directed thereto through a stack or chimney, incinerator, or other devices.
- K.** “Open Dump” means the consolidation of solid waste from one or more sources at a disposal site with unsanitary conditions, little or no cover, usually burning, and little or no management.
- L.** “Person” means any individual, firm, governmental unit, organization, partnership, corporation, or company.
- M.** “Putrescible” means solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gasses, such as kitchen wastes, food scraps, offals and carcasses.
- N.** “Radioactive Solid Waste” means any radioactive material.
- O.** “Recyclable Waste” means glass containers, metal cans, jarlids, newspaper, magazines, phone books, hard-cover books, cardboard, brown paper bags, office/writing paper, envelops, file folders, plastics (HDPE and PET), aluminum cans, foil, batteries and motor oil.
- P.** “Refuse” means all non-putrescible wastes.

Q. “Solid Waste” means all garbage, refuse, rubbish, trash, and other discarded, solid materials, including solid wastes materials resulting from industrial, commercial, and agricultural operations, from community activities and individual people, but does not include solid or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluent, dissolved materials in irrigation return or other common pollutants.

R. “Solid Waste Collector” means LTBB approved tribal or non-tribal entity responsible for collecting, transporting and properly disposing of solid waste.

S. “Solid Waste Disposal” means the collection, storage, treatment, utilization, processing or final disposal of solid waste.

T. “Solid Waste Disposal Facility” means any land, personnel equipment, or resource approved for and used in the disposal of solid waste.

U. “Solid Waste Reduction” means reduction of waste at the source of generation, prior to recycling.

V. “Spoiled Food” means any food which has been removed from sale by the United States Department of Agriculture.

W. “Transfer Station” means any facility approved by the LTBB Tribal Council for the purpose of collecting, transporting and disposing of solid wastes.

X. “Tribal Health” means the Health Director and/or his authorized representative or Department representatives.

Y. “Tribe or LTBB” means the Little Traverse Bay Bands of Odawa Indians.

Z. “Vector” means an insect or other animal, which transmits infectious diseases from one person or animal to another.

AA. “Waste Wood” means any wood of commercial nature that has not been treated, stained, painted, tarred, shingled, or glued.

BB. “Yard Waste” means any waste associated with common yard maintenance, such as grass clippings, pulled weeds, leaves, twigs and branches.

SECTION III. APPLICABILITY

This Statute applies to all real property and persons under the jurisdiction of the Little Traverse Bay Bands of Odawa Indians.

SECTION IV. SOLID WASTE DISPOSAL

The following provisions shall apply to all solid waste disposal within LTBB Tribal jurisdiction.

- A.** No person shall leave, deposit, and/or dump solid waste anywhere within LTBB’s jurisdiction except at a collection site or tribally approved transfer station.
- B.** No person shall store any solid waste on any properties or land within LTBB Tribal jurisdiction except for in containers, which have been approved and accepted by the solid waste collector.
- C.** No person shall burn and/or incinerate any solid waste on any properties within LTBB jurisdiction with the exception of those waste allowed for by permit (brush, yard waste and/or waste wood). This shall include but not be limited to burn barrels, burn baskets, in ground pits, garbage piles and the like.
- E.** No person shall deposit solid waste from any stopped or moving vehicle onto state, county, or tribal highways, roads, or right-of-ways, within LTBB Tribal jurisdiction.
- F.** No person shall dispose of any commercial hazardous and/or nuclear waste within LTBB jurisdiction.
- G.** No person shall deposit solid waste at a collection site or transfer station except in a manner approved by the solid waste collector.

H. The owner and/or occupant of any premise, business establishment, or industry within LTBB jurisdiction shall be responsible for the proper disposal of any solid waste produced by or accumulated at said premise, business establishment, or industry.

SECTION V. SOLID WASTE REDUCTION, REUSE AND RECYCLING

Solid waste reduction, reuse and recycling are the preferred methods of handling solid waste. LTBB is and will continue to be committed to solid waste reduction, reuse and recycling.

A. All Tribally owned or funded facilities and/or enterprises shall implement a solid waste recycling and reduction policy developed by the Tribal Council or its designee.

B. The Tribe will make available at all Tribal housing sites and/or developments recycling collection bins.

C. All Tribally owned and/or funded facilities and/or enterprises and the collector contracted to empty the recycling collection bins shall not dispose of the said collected recyclables in any fashion other than which would allow the said recyclables to be recycled.

SECTION VI. OPEN BURNING

Burning is not a recommended method of waste disposal. However, open-air burn permits may be issued for the burning of brush, other yard wastes and waste wood if conditions are conducive to safety and environmental protection.

A. The applicant must request a permit and receive approval in writing from the LTBB Natural Resources Department prior to any burning.

B. The permittee will be required to inform the nearest local fire authority as to the time and location of the intended burn.

C. The permittee will be held responsible for any damages that may result from the fire itself or any other fires caused by the initial fire.

- D.** All permitted fires shall be attended at all times.
- E.** The permit will be valid for thirty (30) days after the date issued. The permittee must request in writing another permit after the expiration date.
- F.** All burning must cease and the permit becomes void if a burn ban is issued (contact local fire authority). The permittee shall be required to obtain a new permit in writing to continue burning once the restriction or ban has been lifted.
- G.** The permittee will be required to comply with any burning restrictions and/or bans that may be currently in place or enacted.
- H.** Burn permits are not required for campfires.
- I.** No permit shall be required when an inch or more of snow is present provided that no other restrictions apply.

SECTION VII. SOLID WASTE COLLECTION AND TRANSPORT

- A.** Any solid waste transported within LTBB jurisdiction shall be collected and transported in a manner that prevents the waste from leaking, blowing off, or falling from the transport vehicle. If there is any solid waste lost from or if there is any spillage from the collection container or transportation vehicle, the material shall be immediately picked up by the solid waste collector and returned to the vehicle or container and the area properly cleaned.
- B.** Commercial vehicles or containers used for collection and transportation of garbage and other putrescible wastes, or solid waste containing such materials, shall be covered, leak proof, durable, and of easily cleanable construction. These shall be cleaned to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

SECTION VIII. ENFORCEMENT

- A.** LTBB's Law and Conservation Enforcement officers shall be empowered to enforce all provisions of this Solid Waste Statute. When necessary to enforce this Statute, Tribal law enforcement or natural resources conservation officers may file reports with the Tribal Prosecutor.

B. Any duly authorized agent, in the performance of his or her duty, may enter into any premises on or in which he or she has reasonable cause to believe a violation of this Statute is occurring after obtaining a valid search warrant from the Tribal Court, subject to the common law exceptions for exigent circumstances.

C. Violation of any provision of this Statute is a civil penalty which may not exceed \$500. Each day of any continuing violation may be charged as a separate violation, and a separate penalty may be imposed.

D. In addition to a civil penalty, any personal property which has been used in connection with a violation of this Statute, including vehicles and other equipment may be seized and forfeited in satisfaction of any judgement rendered pursuant to this Statute.

E. Any person found in violation this Statute shall be responsible for any damage, clean up and/or remediation that may be necessary as a result of the said violation.

F. Repeated violations by occupants or Tribal Members that are renting or leasing from the Tribe may be punished by the termination of the rental agreement and/or lease.

G. Nothing herein shall prevent the Little Traverse Bay Bands of Odawa Indians from bringing suit against any violator of this Statute for monetary damages, for harm to any LTBB resources, or for injunctive relief.

SECTION IX. PERMITS

The Little Traverse Bay Bands of Odawa Indians Natural Resource Department shall be responsible for the issuance of permits under this Statute.

SECTION X. LIMITATIONS

Nothing within this Statute shall be constructed to limit the authority of the Tribal Council from adopting more stringent solid waste disposal requirements than those set forth in this Statute.

SECTION XI. SAVINGS CLAUSE

In the event that any phrase, part, provision, paragraph, subsection or section of this Statute found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such phrase, part, provision, paragraph, subsection or section shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect.

SECTION XII. EFFECTIVE DATE

This Statute shall take effect upon enactment by Tribal Council

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 January 5, 2003 at which a quorum was present, by a vote of seven (7) in favor, zero (0) opposed, zero (0) abstentions, and zero (0) absent as recorded by this roll call.

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

Date: 1-05-03

Gerald V. Chingwa, Tribal Chairman 

Beatrice Law, Tribal Secretary