

Wahta Mohawk Hunting, Fishing and Trapping

Proposed By-law Draft

Wahta Council would propose to have a OMNR Conservation Officer issue charges in relation to enforcement of this By-law. That being said: A Conservation Officer is only permitted to enforce the infractions to the By-law for which they have been called to enforce. They will not be permitted to enforce any of the remaining By-law infractions they may deem to be in violation of the By-law.

Definitions:

As it pertains to this By-law:

- a. "Artificial Light" means a flashlight, lantern of any kind, torch, flare, spotlight or the headlights of any vehicle and any other source of illumination other than the sun and the moon and the stars;
- b. "Automatic weapon" means any firearm that is capable of firing bullets in rapid succession during one pressure of the trigger;
- c. "Bag Limit" means the maximum number established by this law of individuals of a species or group of species that a hunter or fisherman may take legally in one day;
- d. "Bait", in connection with migratory birds, means corn, wheat, oats or other cultivated grain or any product thereof or any manufactured product or material that may attract migratory game, birds and includes plastic corn and any other imitation grain;
- e. "Bait-fish" means the mud minnow family, the sucker family, the stickleback family, the darter subfamily and any member of the minnow family except carp or goldfish;
- f. "Big game" means moose, deer, bear and any other animal defined as such by the Wahta Mohawk Council;
- g. "Conservation Officer" means Conservation Officer appointed by the Wahta Council to enforce this law;

- h. "Deleterious substance" means any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish or other aquatic life, or fish or other aquatic life habitat or to the use by man of fish or other aquatic life in that water, or, any water containing a substance in such quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any water, degrade or alter or form part of a process of degradation or alteration of the quality of that water so that it is rendered or is likely to be rendered deleterious to fish, other aquatic life, or fish or aquatic life habitat, or to the use by man of fish or other aquatic life in that water;
- i. "Fishing" means the taking or attempt to take any aquatic species by means of hook and line, net of any shape or fashion, trap or weir, while being actively monitored or placed in the environment for the purpose of removing aquatic species;
- j. "Fishing Permit" means a document issued to the holder, by the Wahta Council permitting the act of fishing;
- k. "Fur bearing animal" includes a fox, beaver, mink, otter, fisher, marten, muskrat, skunk, raccoon, weasel, bobcat, lynx, coyote, wolf, coyote, and squirrel;
- l. "Game" means a game animal, game bird or fur-bearing animal, and includes any part of such animal;
- m. "Game animal" means any animal, except fur-bearing animals, as may be deemed by Wahta Council, and includes any part of such animal;
- n. "Game bird" means a Ruffed Grouse, Spruce Grouse, Hungarian Partridge, Pheasant, Sharp-tailed Grouse, Greater Prairie-chicken, Ptarmigan, Bob-white Quail or White Turkey, Crow, Cowbird, Blackbird, Starling, House-sparrow, Migratory Game Birds, Migratory Insectivorous Birds, Migratory Non-Game Birds, and includes and part of such bird;
- o. "Hunt" means to chase, pursue, worry, follow after or on the trail of, stalk or lie in wait for the purpose of taking any animal or bird, and any molesting, trapping, attempting to trap, shooting or shooting at any animal or bird, whether or not the animal or bird is then or subsequently captured, killed or injured;
- p. "Hunting Permit" means a document issued to the holder, by the Wahta Council permitting the act of hunting;

- q. "Migratory Birds" means Migratory game birds, migratory insectivorous birds and migratory non-game birds and includes any such birds raised in captivity that cannot be readily be distinguished from wild migratory birds by their size, shape or colour, and any part of such birds;
- r. "Primitive weapons" means archery weapons and flintlock or percussion cap muzzle-loading guns;
- s. "Private land" means any land owned by the Wahta Mohawks, a member of the Wahta Mohawk Band, or a company or corporation.
- t. "Rabbit" includes Cottontail Rabbit, Varying Hare and European Hare;
- u. "Snare" means a device for the taking of animals whereby they are caught in a noose, and "snaring" has a corresponding meaning;
- v. "Sport fishing" means fishing by any person who is not a Wahta Band member, by angling, for reasons of sport;
- w. "Trap" means a spring trap, gin, deadfall, snare, box or net used to capture game, and "Trapping" has a corresponding meaning;
- x. "Vessel" means a boat or ship, and includes a skiff, canoe, punt and raft;
- y. "Wahta Mohawk Council" means any acting elected member of the Wahta Band Council at the time, including the acting Chief, or a duly appointed representative of the Council for purposes related to the by-law and "Wahta Council" or "Wahta Band Council" has a corresponding meaning;
- z. "Wahta Mohawk Territory" means any area within the boundaries of the Wahta Mohawk claimed lands.
- aa. "Wildlife" means all species and populations of wild fauna within the boundaries of Wahta Mohawk Territory;
- bb. "Wildlife Conservation" means the pursuit of the optimum natural productivity of all living resources and the protection of the ecological systems of the territory so as to protect endangered species and to ensure primarily the continuance of the traditional pursuits of the community members, and secondarily the satisfaction of the needs of non-members for sport hunting and fishing;
- cc. "Wildlife Sanctuary" means a territory set aside by the Wahta Council to preserve such area in its natural state, to set aside

such area for scientific research, for educational purposes, and, if need be, to safeguard animal and plant species threatened with disappearance or extinction; also, any area of land or water with a particular kind of environment set aside by the Wahta Council for temporary or permanent protection of certain species of animals;

dd. "Wolf" means any of the species *Canis Lupus* L. or *Canis Latrans* Say.

1. No person shall hunt, trap, fish for, capture, kill, take, molest, buy, sell, possess, barter or trade, ship or transport, disturb or destroy, or by any act or negligence harm,

I. any birds, their nests, eggs or any bird habitat or shelter of any description;

II. any non-domestic fur-bearing animals, their shelter or habitat of any description;

III. fish or aquatic animals of any species, their spawn, spawning area, habitat or any area frequented by fish or aquatic animals, or any species of wildlife fauna in Wahta Territory.

IV. without a permit issued specifically for that purpose by the Wahta Mohawk Band Council.

2. A Wahta member carrying proper identification proving their status as a Wahta Mohawk member shall not require a permit under this law or any other law;

I. to hunt or fish for food for them self and other members of the community;

II. to transport any fish or game they have hunted or fished or received from any other member of the community; or

III. to possess any fish or game they have hunted or fished in compliance with this law;

but a Wahta member shall in all other respects comply with the provisions of this law.

3. A Wahta Mohawk member may submit at any time during Wahta Mohawk office hours, a letter or verbal statement of facts concerning a violation of the by-law to the Wahta Mohawk Council or a person pursuant to section 8 of the by-law.

4. A person who is under the age of sixteen years may hunt and trap without

a permit if accompanied by and under supervision of a Wahta member, or a person holding a permit issued under section 1, and provided that they have completed a course in the safe handling and use of firearms, or successfully completed a test relating to the safe handling of firearms that, at the time they completed the course or test, was approved by the province or state in which they took the course or test.

5. The Wahta Mohawk Council may at any time restrict hunting of any specific species on Wahta Territory in instances where the Council deems that by continuing to allow harvesting to occur may be detrimental to the sustainability of that species on Wahta Mohawk lands.

6. The Wahta Mohawk Council, may authorize any river or other water, or specific part thereof, to be set apart for the natural propagation of fish.

7. The Wahta Mohawk Council may by resolution appoint persons to be Conservation Officers for the purpose of enforcing this law.

8. The Wahta Mohawk Council may appoint a person or persons to act as a representative of the Wahta Mohawk Council to issue permits pursuant to this law.

9. The Wahta Mohawk Council may by resolution set fees for any permits issued pursuant to Section 1 of this law.

10. Any person who applies for a permit pursuant to this law shall pay the fee prescribed for that permit by the Wahta Mohawk Council.

11. Any person who applies for a permit under this law shall, when requested by the Wahta Mohawk Council or by a person appointed pursuant to Section 8, furnish such information respecting the purpose for which the permit is to be used, as the Wahta Mohawk Council may require.

12. Every Wahta Territory Hunting Permit issued by the Wahta Council must include the following:

- I. the name and address of the Permit Holder;
- II. the date of the issue of the Permit;
- III. the date of the expiration of the Permit; and
- IV. a space for the signature of the Permit Holder.

13. A Wahta Territory Hunting Permit issued by the Wahta Council is not valid unless it is signed in ink by the Permit Holder in the space designated on the Permit.

14. A permit issued under this law is deemed to be invalid if it is not signed by the person to whom it is issued, if it is in the possession of a person other than the person to whom it is issued, or if any of the information on the permit has been omitted, changed, removed or defaced.

15. The holder of a permit obtained by any false or misleading statement or information made or given in respect of any information required for the issuance of the permit shall be deemed to be the holder of a void permit and the holder may be prosecuted in the same manner and with the same effect as could be prosecuted if they were not the holder of a valid permit.

16. Every person hunting or fishing in Wahta Territory who is required to have a permit must have their permit on his or her person, exhibit it to any Conservation Officer who requests them to do so, and inform such officer of their address.

17. The Council may, after a notice and hearing, cancel the permit of any person where it is satisfied:

- I. that the person has contravened the terms of the permit or of this bylaw, or
- II. that the continuation of the permit would be detrimental to the preservation or protection of fur bearing animals or other game on the reserve or;

for any other reason at any time as Council deems appropriate.

18. Unless the Wahta Mohawk Council orders otherwise, all permits held by a person shall become null and void upon conviction of any violation of this law, and that person shall not be eligible to apply for any permit under this law for a period of one year from the date of the conviction.

19. The Wahta Council may require a Permit Holder to provide the Wahta Council with a report on the following matters:

- I. the timing and precise location of hunts;
- II. the species, sex and age of the wildlife or migratory birds hunted that season;
- III. the total number of animals hunted that season; and
- IV. any other such information as the Wahta Council may deem necessary.

20. All persons issued a permit under section 1 shall upon completion of their hunt, expiration of their permit, revocation of their permit, or at any time requested by Wahta Council, complete a species harvest log as provided by Wahta Council pursuant to section 19.

21. All persons issued a permit pursuant to section 1 of the by-law shall as a gesture of good faith, surrender a portion of an animal harvested on Wahta Territory to the Wahta Mohawk Council for division

amongst elders within the Wahta community.

22. No person while hunting shall use a mask or covering so as to obscure their identity or to be covered in a way in which their identity is in question.

23. Without authorization from the Mohawk Council, no person shall enforce, or purport to enforce, this law or any other law dealing with the same subject matter as this law within the Wahta Mohawk Territory.

24. A Conservation Officer must be accompanied by a member of Wahta Council or a person pursuant to section 8, while on Wahta Territory to enforce or investigate any contraventions of the by-law.

25. A Conservation Officer while on Wahta Mohawk Territory, may not conduct any investigation; make arrest; or enact charges in relation to any other matter not directly requested by Wahta Mohawk Council prior to arrival.

26. A Conservation Officer may arrest, without a warrant, any person whom is found in violation of any provision of this law.

27. A Conservation Officer may cause every person whom they have arrested to appear before a Justice of the Peace as soon as practicable and in no case later than twenty-four hours after such arrest.

28. Every Conservation Officer in the performance of their duties may enter upon or pass across or over any property, whether public or private.

29. Every Conservation Officer may, without a warrant, enter and search any vehicle, aircraft, boat, building or premises other than a private dwelling, and open or cause to be open and examine any trunk, box, bag, parcel or receptacle, if they have reasonable and probable grounds to believe that it contains:

I. any animal, fur, fish or bird, or part thereof, held contrary to this law; or

II. any object which has been used to violate this law.

30. No person shall take, molest, buy, sell, possess, barter or trade, ship or transport, disturb or destroy, or by any act of negligence, harm the habitat, shelter, nesting structure or any area frequented by any birds, fur-bearing animals or fish or aquatic animals on Wahta Territory, unless that person has a permit that has been issued specifically for that purpose by the Wahta Mohawk Council.

31. No person shall deposit offensive debris of any description or leave offensive debris in the area in which they are camped, docked or hunting.

32. No person engaged in logging, lumbering, land clearing or other operations shall put or knowingly allow to be put, any slash, stumps or other debris into any water in Wahta Territory frequented by fish or that flows into such water, or on the ice over such water, or at a place from which it is likely to be carried into such water.

33. No person shall release or introduce any animal, plant, bird or fish imported into Wahta Territory or propagated from stock imported into Wahta Territory, except with the consent in writing of the Wahta Mohawk Band Council.

34. No person shall permit any animal, bird or fish imported into Wahta Territory or propagated from stock imported into Wahta Territory to escape.

35. No person shall hunt any animal or bird in Wahta Territory earlier than one half-hour before sunrise or later than one half-hour after sunset on any day.

36. No person shall hunt any animal, bird or any wild fauna on Wahta Mohawk Territory:

- I. by the use of live birds;
- II. by the use or aid of recorded calls;
- III. with a shotgun of any description capable of holding more than three shells unless the capacity of the gun has been reduced to a three-shell capacity in the magazine and chamber combined by means of the cutting off or the altering or plugging of the magazine with a one-piece metal, plastic or wood filler that can not be removed unless the gun is disassembled;
- IV. by the use of a firearm loaded with a single bullet or slug;
- V. by means of rockets, explosive materials, or explosive projectiles or shells;
- VI. by means of any automatic weapon.

37. No person shall hunt a migratory bird except with a shotgun not larger than number ten gauge, or with a primitive weapon.

38. No person shall hunt any animal or bird in Wahta Mohawk Territory by means of an aircraft, sailboat, vessel or motorized vehicle of any description, except for the purpose of transportation before and after any hunting activity.

39. No person shall use a vehicle, vessel or aircraft for the purpose of chasing or hunting any animal or bird.

40. No person within the boundaries of Wahta Mohawk Territory shall possess or use explosives for the purpose of construction unless such

possession or use has been approved by the Wahta Mohawk Band Council.

41. The sections of this part relating to the possession, use and transportation of firearms do not apply to any person who by reason of their employment or duties is authorized to be in possession of or to transport such a firearm.

42. No person shall use any device which connects a firearm to a trap or to a remote control or delayed-action mechanism, or which causes a firearm to discharge without the hunter actively pressing upon the trigger of such firearm.

43. Every person is guilty of the offence of hunting carelessly who, being in possession of a firearm for the purpose of hunting, or target shooting, discharges or causes to be discharged or handles the firearm without due care and attention or without reasonable consideration for person or property.

44. No person shall discharge a firearm:

- I. on or from a public road;
- II. across a public road; or
- III. from a vehicle, aircraft or vessel.

45. No person shall, while hunting in Wahta Mohawk Territory, have with them for their own use more than one firearm at a time unless the additional firearm is unloaded and encased or disassembled.

46. No person shall have a loaded firearm in their possession while they are under the influence of alcohol or a drug.

47. No person shall have in their possession or transport a loaded firearm in a vehicle, aircraft or vessel.

48. A firearm having an unfired shell or cartridge in the chamber or in a magazine attached to the firearm shall be deemed to be loaded.

49. All provisions pertaining to fishing shall also pertain to ice fishing.

50. No person shall leave or deposit or cause to be thrown, left or deposited upon any shore, beach or bank of any water, or upon the beach between the high and low water marks, remains of fish or aquatic animals, or to leave decayed or decaying fish in any net or other fishing apparatus.

51. Remains of fish or aquatic animals may be buried ashore above the high-water mark.

52. No person shall destroy fish by any means other than fishing, except

as authorized by the Wahta Mohawk Council.

53. No person shall take, catch or fish for, Smallmouth Bass and Largemouth Bass, Muskellunge, Brook Trout, Brown Trout, Rainbow Trout and Atlantic Salmon by any means other than angling.

54. No person shall take fish by snagging or the use of non-baited hooks, except in the case of artificial lures used for casting or trolling.

55. No person shall use a purse seine in any Wahta Territory waters for the purpose of taking any fish unless issued a permit to conduct scientific research by the Wahta Council only.

56. Nets or other fishing apparatus shall not be set or used in such a manner or in such a place as to obstruct the navigation of boats or other vessels, and no person in navigating any boat or vessel shall destroy or wantonly injure in any way, seines, nets or other fishing apparatus lawfully set.

57. Every person using stakes, posts, buoys or other materials placed for fishing purposes in any water in Wahta Mohawk Territory shall remove the same within forty-eight hours after ceasing to use them, and in all cases at the expiry of the fishing season.

58. No person while ice fishing shall:

I. fish with more than two lines;

II. be more than fifty metres away from any line with which they are fishing.

59. No person shall for hire, gain or reward, hunt game or, employ, hire or, for valuable consideration, induce any other person to hunt game.

60. No person shall hunt, fish, or trap on Private lands without expressed written permission from the owner or a person authorized by the owner to give such permission.

61. No person shall tear down, remove, deface, damage or interfere with any notice or sign put up, posted or placed:

II. by an owner of land pursuant to Section 60.

III. by the Wahta Mohawk Council for the purposes of this law.

62. No person shall hunt or trap or with any firearm in their possession go upon any land, water or marsh after they have had oral or written notice, not to hunt or trap thereon by the owner or by a person authorized by the owner to give such notice.

63. All trapping equipment must meet AIHTS (Agreement on International Humane Trapping Standards) and be used under the

authority of a Trappers licence.

64. The holder of a permit to trap fur-bearing animals may sell any fur-bearing animal, or any pelt of any fur-bearing animal taken by him under the authority of the permit.

65. No person shall touch or interfere with any set trap, unless authorized by the Wahta Band Council or the owner of the trap.

66. No person shall hunt big game in Wahta Territory without a permit issued by the Wahta Mohawk Council other than persons described in section 2 of this by-law.

67. Any person found in possession of a firearm and an artificial light at night in a place where big game is habitually found shall be presumed to be or have been hunting contrary to this law.

68. No person owning or harbouring a dog shall allow it to run at large in any place where big game is habitually found.

69. No person shall hunt big game while it is swimming.

70. No person shall sell, offer for sale, purchase or barter, a big game animal, or possess a big game animal for sale, except under the authority of a permit issued by the Wahta Mohawk Council.

71. No person shall, during a closed season, take a big Game animal for sustenance, educational or scientific purposes, except with the written authority of the Wahta Mohawk Council.

72. No person shall hunt game birds in Wahta Territory except under the authority of a permit issued by the Wahta Mohawk Council.

73. No person shall hunt any game bird during the closed season, or any other bird at any time, except crows, cowbirds, blackbirds, starlings and house sparrows.

74. Every person who;

I. fails to observe or who otherwise contravenes any provision of this bylaw or any ban or restriction imposed here under, or

II. resists or willfully obstructs a Conservation Officer in the performance of any duty or in the exercise of any power under this bylaw,

commits an offence.

75. Where an act or omission in contravention of this bylaw or any ban or restriction imposed hereunder continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.

76. A person who violates any provision of this law is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars, or to imprisonment for a term not exceeding one month, or to both fine and imprisonment.

77. Any person who aids or abets another person to violate any provision of this law is party to such offence and is liable to the same penalties as the person who commits the offence.

78. In addition to any penalty it may impose, the Court may order a person convicted of any offence against this law to cease all activity specified in any lease or permit, and may order the lease or permit revoked.

79. Where an offence is committed on more than one day, or is continued for more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.

80. In the prosecution for an offence against any provision of this law, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been charged with the offence, unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.