WAGANAKISING ODAWAK STATUTE 2006-008

Citizenship Statute of the Little Traverse Bay Bands of Odawa Indians

SECTION I. PURPOSE

The purpose of this Statute is to establish Tribal Citizenship policies and procedures.

SECTION II. TITLE

This statute shall be designated as the Citizenship Statute of the Little Traverse Bay Bands of Odawa Indians.

SECTION III. AUTHORITY

The Tribal Council of the Little Traverse Bay Bands of Odawa Indians has the authority for the enactment of this statute pursuant to Article V(I) of the Constitution.

IV. REPEAL OF PREVIOUS LEGISLATION

This statute repeals and replaces the Tribal Enrollment Statute WOS 2002-06 as amended by WOS 2003-02, WOS 2004-04 and WOS 2004-09.

A. **Effect on Tribal Citizens**. Enactment of this Statute shall have no effect on the citizenship status of any Tribal Citizens enrolled by the Tribe under previous legislation.

B. Effect on Enrollment Commission; Commissioners. Enrollment Commissioners that are currently on the Enrollment Commission at the time this Statute is enacted shall remain in office until the expiration of their current term, and shall constitute the commissioners of the Citizenship Commission created in § VII of this Statute.

V. DEFINITIONS

A. Adopted child: One whose natural parents' parental rights have been terminated by a court or voluntarily relinquished and given to another.

B. Adoption: Either (1) the legal action whereby parental rights of natural parents are terminated by court order and assigned to another, or (2) the granting of citizenship in a tribe by some special provision to a person who does not meet the basic citizenship eligibility criteria. The context will show clearly which definition is intended.

C. Adult: Any person eighteen (18) years of age or older.

D. Applicant: A person who has submitted an application for citizenship in the Tribe prior to final action on the application.
E. Base Enrollee: Those persons identified in the Constitution as being an individual from whom descent must be proved in order to be eligible for citizenship in the Tribe.
F. Child/Children: Any person/persons seventeen (17) years of age or younger.
G. Citizen: An individual who meets the requirements of Article V of the Constitution. Enactment of this Statute shall have no effect on the citizenship status of any Tribal Citizens enrolled by the Tribe under previous legislation.
H. Constitution: The Constitution of the Little Traverse Bay Bands of Odawa Indians as adopted by the Tribe on February 1, 2005, and any amendments thereto.
I. Degree of North American Indian Blood: The total degree of Indian blood of all tribes, bands or groups located in North America.
J. Descendant: An individual who can trace biological descent. Biological descent where lineage can be traced from parent to child in each generation.
K. Disenrollment: An official act by the Tribal Council to deprive a citizen of tribal citizenship.
L. Documentation: The supply of legal evidence to support a statement of fact. No enrollment action shall be taken without documentation to support the decision.
M. Family tree chart: The form used to show the line of descent of an applicant.
N. Incompetents: Persons who have been legally determined by a court of competent jurisdiction to be unable to take effective actions on their own behalf.
O. Little Traverse Bay Bands of Odawa Indians: LTBB, Tribe.
P. Minor: A person seventeen years of age or younger.
Q. Notarized: A document attested before or authenticated by a notary public who witnesses the signature and certifies that it is authentic.
R. Relinquishment: Personal, voluntary action taken by a tribal citizen or an individual legally authorized to act on the citizen's behalf to terminate the citizen's citizenship in the Tribe.
S. Resolution: A formal statement of a decision by a tribal entity.
T. Sponsor: A parent or legal guardian who has the legal authority to take enrollment actions on behalf of another person because of age or incompetence.
U. Tribal Council: The Little Traverse Bay Bands of Odawa Indians legislative branch as defined in Articles VI(C) and VII of the Constitution.

VI. ELIGIBILITY FOR CITIZENSHIP

Article V of the Constitution sets out the requirements for citizenship in the Tribe.

VII. CITIZENSHIP COMMISSION

A. Citizenship Commission Established. Pursuant to Const. art. VII, § D(16) a Citizenship Commission is hereby created. The Citizenship Commission ("Commission") shall replace the Enrollment Commission created by WOS 2002-06. The Commission shall consist of three (3) or not more than five (5) tribal citizens nominated by the Executive and approved by the Tribal Council.
B. Citizenship Commission Mandates:

1. Advise the Enrollment Officer and other Enrollment Department staff as to how the process of enrolling as a citizen of the LTBB may be made as fair and equitable as possible.

2. Review all applications to substantiate whether an applicant is eligible or not eligible in accordance with citizenship requirements established in the Constitution; and approve or decline an application based on that review.

3. Conduct a monthly review of the applications of two (2) applicants which the Enrollment Department determined did not meet eligibility requirements for citizenship to ensure that the Enrollment Department is correctly interpreting and implementing eligibility requirements.

4. Assist the Enrollment Department in developing regulations and procedures to implement Article V of the Constitution and the provisions of this Statute.

C. Meetings. The Citizenship Commission shall meet at least once a month; but may meet more frequently if necessary to carry out the functions mandated by this Statute.

D. Term of Office. The term of office for a Commissioner on the Citizenship Commission shall be four years.

E. Oath. Citizenship Commissioners are to be sworn in under an oath of office prepared and administered by the Tribal Court within thirty (30) days of their appointment.

F. Application of Commissions, Committees Boards Statute. The Commissions, Boards and Committees Statute, WOS 2002-05 (as may be amended), applies to the Citizenship Commission to the extent it is consistent with this Statute.

G. Removal; Resignation:

1. Resignation. A Commissioner may resign at any time in accordance with regulations developed by the Citizenship Commission.

2. Removal. A Commissioner may be removed in accordance with the provisions of the Commissioner Removal and Nepotism Act, WOS 2001-10 (as amended).

3. Regulations. The Citizenship Commission shall develop regulations to implement this Statute.

VIII. LOSS OF CITIZENSHIP

There are two ways in which citizenship in the Tribe may be lost. One is voluntary and is called relinquishment. The other is involuntary and is called disenrollment.

A. Relinquishment. Individuals who desire to relinquish their citizenship must do so in accordance with regulations established pursuant to this Statute. Judicial review is required for relinquishment requests of minors and incompetent persons.

B. Disenrollment. Disenrollment actions against individuals who do not meet the citizenship eligibility requirements set out in the Constitution shall be conducted in accordance with regulations established pursuant to this Statute.

C.Citizenship after relinquishment or disenrollment: A citizen who has either relinquished their citizenship in the Tribe or has been disenrolled from the Tribe shall not be eligible for re-enrollment for a period of five (5) years.

D. Burden of Proof. The burden of proof in disenrollment actions is on the Tribe.

IX. APPEALS

A. Eligible appellants. The following persons shall be eligible to file an appeal:
Any applicant who has been rejected for citizenship; provided however, that a person who has filed a petition for adoption into citizenship has no right to an appeal. **OR**

1. Any person who has been disenrolled.

B. Timing of appeal: Each notice of rejection or disenrollment shall provide that an appeal must be received within one (1) year of the receipt of the notice in order to be considered. The date stamped on the receipt of the certified letter shall be considered the beginning of that period.

C. Filing of appeal: The notice of appeal must be filed with the Tribal Court. The date the appeal is received in the Tribal Court office shall be considered its date of receipt. An appeal must be in writing. No appeal may be filed by any form of electronic communication. Failure to file an appeal within one (1) year shall waive any right to an appeal.

D. Handling of appeal:

1. Upon receipt of an appeal, the Tribal Court shall obtain the applicant's file from the Enrollment Office for review.
2. The Tribal Court shall schedule a hearing on the appeal not less than sixty (60) days, or more than one hundred eighty (180) days, from the date of receipt of the appeal.
3. The Tribal Court shall base its decision upon the documents available to the Citizenship Commission and the Tribal Council and shall not consider any new evidence, or evidence that was unavailable to the Citizenship Commission and/or the Tribal Council, at the hearing.

X. REPORT REQUIREMENTS

It is the responsibility of all adult Tribal citizens and non-citizen guardians of minor or incompetent Tribal citizens, on behalf of themselves and any minor or incompetent Tribal citizens under their care, to report all status changes to the Enrollment Department including change of address, deaths in the family and change of name.

A. Updating Records
The Enrollment Department shall develop regulations for the updating of citizen records.

B. Executive Report. Once a year the Executive Branch shall submit a report to the Tribal Council which shall contain:

1. The total number of citizens.
2. Tribal citizen deaths during the reporting period.
3. Number of individuals under one (1) year of age who enrolled during the reporting period.
4. A complete updated roll.
5. The date filed.
6. A list of undeliverable addresses.

XI. RECORDS

As used in this Statute, "records" or "enrollment files" means any item, collection, or grouping of information about, or collected from individuals, including, but not limited to, birth certificates, genealogy reports, or other documents that contain the individual's name, or identifying particulars assigned to the individual, such as photographs, which information is collected for the purpose of determining the eligibility for enrollment in the Tribe of an individual or citizens of an individual's family. The names and addresses of adult Tribal citizens are not confidential for the purpose of publishing a directory.

A. Insuring Integrity of Records. Records collected or retained by the Enrollment Department shall be maintained in accordance with regulations established pursuant to this Statute.

B. Access to Tribal Records and Standards of Care: The following persons are authorized to review and handle enrollment records when in the discharge of their official duties upon being sworn to taking an oath of confidentiality. All of the individuals listed below, whose duties require handling of records are subject to this Statute and at all times shall take care to protect the integrity, security, and confidentiality of all citizenship files and documentation:

1. Enrollment Officer.
2. Authorized Enrollment Staff.
3. Members of the Citizenship Commission.
4. Members of the Tribal Judiciary.
5. Members of the Tribal Council.
6. LTBB Legal Department.

C. Release of Information: No records contained in enrollment files may be disclosed by any means of communication to any person, or another agency, except pursuant to a written request by, or with the prior written consent of the individual to who the record pertains, except:

1. For purposes of the Bureau of the Census for planning or carrying out a census or survey or related activity pursuant to the provision of Title 13 of the United States Code.

2. To a recipient who has provided the Enrollment Officer, or other person responsible for the record system in which the documents contained in the enrollment files are maintained, with advance adequate written assurance that the records will be used solely as a statistical research or reporting record, and the records are to be transferred in a form that is not individually identifiable.

3. To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to last known address of such individual.

4. Pursuant to the order of the Tribal Court upon showing of good cause or compelling circumstances.

5. A list of enrolled citizen's names and addresses may be included in a Directory prepared by the Enrollment Officer in accordance with this Statute. The Directory of citizens' names and addresses may be provided to any Tribal citizen or employee of the Tribe requesting of copy of such Directory.

6. Information submitted to the State of Michigan to implement the terms of Agreements made between the State and the Tribe.

7. Information submitted to the State of Michigan, or any other sovereign entity or agency representing a sovereign entity, to implement the terms of any agreement authorized by the Tribal Council between the Little Traverse Bay Bands of Odawa Indians and a sovereign entity regarding the sovereign entity's` acceptance of Tribal identification cards.

8. Information supplied by the Enrollment Department to the Economic Development Department for the purpose of implementing a swipe card system to aid in the implementation of any tax agreement

authorized by the Tribal Council between the Little Traverse Bay Bands of Odawa Indians and any other governmental entity, or for such other purposes as may be authorized by the Tribal Council.

9. Release of copies of tribal identification cards, social security cards or numbers and birth certificates to the Director of LTBB Human Services for Tribal children who have been placed outside the home of their parent or guardian by any court. A written certification by the Human Services Director is acceptable evidence of such out-of-home placement. Human Services may provide such information to foster parents or agencies as needed to protect the interests of the child.

10. Release to the LTBB Human Services, LTBB Legal Department, LTBB Prosecutor, or any other attorney representing LTBB, of any information needed to verify the LTBB Citizenship or eligibility status of children who have foster care, guardianship or any potential out-of-home placement proceedings pending before any state or tribal court.

11. Release of information regarding LTBB Citizenship to another Indian Tribe or the Bureau of Indian Affairs when requested by a duly authorized official of the requesting tribe or agency.

12. Release of information to a law enforcement agency pursuant to a valid court order or subpoena.

13. Release of information regarding LTBB citizenship to the Accounting Department for the purpose of implementing or facilitating any revenue allocation plan enacted by the Tribal Council.

D. Preparation of Tribal Citizens Directory.

1. The Enrollment Department is authorized to prepare a directory of Tribal members in accordance with Administrative Procedures developed pursuant to this Statute.

2. The Tribal Directory may not be published, reproduced, or displayed, in whole or in part, except as provided for in administrative procedures promulgated pursuant to this Statute.

XII. REGULATIONS, ADMINISTRATIVE PROCEDURES, DEPARTMENTAL PROCEDURES

A. Regulations

1. Computation of Blood Quantum. The Enrollment Department shall develop regulations for the computation of blood quantum of individuals who are seeking citizenship in the Tribe.

2. Disenrollment. The Enrollment Department shall develop regulations for disenrollment of citizens.

3. Documentation. The Enrollment Department shall develop regulations regarding the documentation that individuals may use to establish their eligibility for citizenship.

4. Maintenance of Records. The Enrollment Department shall develop regulations to insure the integrity of the records kept by the Enrollment Department; including procedures for the release or disclosure of records and the handling, storage, and release of confidential information.

5. Relinquishment. The Enrollment Department shall develop regulations for relinquishment of citizenship.

B. Administrative Procedures

1. Filing an Application for Citizenship. The Enrollment Department shall develop administrative procedures for filing an Application for citizenship.

2. Processing Applications for Citizenship. The Enrollment Department shall develop administrative procedures for processing Applications for citizenship.

3. **Compiling and Distributing Membership Directories**. The Enrollment Department shall develop administrative procedures for the compilation and distribution of Membership Directories.

XIII. FALSE ACTIONS; FRIVOLOUS ACTIONS; PENALTY

Any party who knowingly submits fraudulent documents to the Enrollment Department, makes fraudulent statements on any documentation submitted to the Enrollment Department, pursues frivolous legal action, or any party who aids or abets such a false or frivolous action, shall be guilty of a civil offense and subject to a fine not to exceed $5,000 and be subject to a term of incarceration not exceeding one year.

XIV. BURDEN OF PROOF

The burden of proof for all proceedings under this Statute, unless otherwise indicated, shall be a preponderance of evidence.

XV. SEVERABILITY

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

XVI. EFFECTIVE DATE

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

CERTIFICATION

As the Legislative Leader and Tribal Council Secretary, we 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 July 23, 2006 at which a quorum was present, by a vote of 7 in favor, 1 opposed, 0 abstentions, 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Regina Gasco Bentley	X			
Fred Harrington, Jr.	X			
Dexter McNamara	X			
Mary Roberts	X			
Rita Shananaquet	X			
Alice Yellowbank	X			
Shirley Oldman				X
Melvin L. Kiogima	X			
Beatrice A. Law		X		

Date: 7/23/06 Beatrice A. Law

Beatrice A. Law, Legislative Leader

Date: 7/23/06

Melvin L. Kiogima, Secretary

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005. The Tribal Council hereby overrides the Executive veto.

THE GREAT SEAL OF THE WAGANAKISING ODAWAK NATION