

WAGANAKISING ODAWAK STATUE 2007-009
ENJINAACKNEGENG

SECTION I. PURPOSE

The purpose of this Statute is to set out the roles and functions of the Executive Legal Department in accordance with the LTBB Constitution. This Statute repeals and replaces WOS 2005-016.

SECTION II. CREATION OF LEGAL DEPARTMENT

A. Pursuant to Article VII (D) (22) of the Constitution the Tribal Council approves the creation of an Executive Department to be known as Enjinaaknegeng which may also be referred to in English as Legal Department (hereafter in this Statute “Department”). It shall be the duty of the Department to provide legal services, counsel to, and representation of LTBB on legal matters (including work with subordinate Tribal entities) under the direction and supervision of the Tribal Chairperson. Provided the Department shall get approval from the Tribal Council prior to actions taken or matters worked on by the Legal Department, that are subject to Tribal Council approval under the Constitution including:

1. acquiring and leasing real property
2. placing land in trust with the United States
3. filing of lawsuits in the name of the Tribe, and
4. any negotiations with other governments, businesses or individuals.

B. The Department may also utilize outside attorneys and consultants as approved by the Chairperson within a budget adopted by Tribal Council within the scope of Tribal Council approved litigation or other approved activities. Any attorney contracts in excess of five-thousand dollars, (\$5,000) must be individually approved by Tribal Council.

C. The Department will provide current updates to the Tribal Council on legal matters taken on behalf of the Tribe and any recommendations for final actions, that require Tribal Council approval under the Constitution, shall be presented to the Tribal Council prior to that action being taken.

- D. Unspent annual budgeted funds for the Legal Department shall carry over to the following year. Each year the Legal Department may budget for expenditure of the cumulative amount of prior years appropriated and unspent funds. Any carryover funds not expended will be carried to future years indefinitely unless otherwise re-appropriated by the Tribal Council, provided the original approved litigation or project is still ongoing. At the conclusion of all approved litigation or project costs the remaining specific appropriated funds will revert to Prior Period Funds unless Tribal Council otherwise directs. The Executive shall provide reports quarterly or as otherwise requested by Tribal Council, on the status of the amounts and expenditures of these carry-over funds.
- E. In accordance with Constitution Article VII (D)(14) future Department attorney contracts must be approved by the Tribal Council.

SECTION III. INTERACTION WITH BRANCHES OF GOVERNMENT

- A. Status as Executive Department. The Department shall report directly to the Tribal Chairperson and Vice-Chairperson. It shall assist the Chairperson, Vice-Chairperson and Executive Departments as directed by the Chairperson. In the event that any Executive officials or staff is sued in their official capacity, the Department shall defend such suits and insure that Tribal Council receives proper notification. The Department shall raise sovereign immunity as a defense unless Tribal Council has taken action expressly waiving sovereign immunity for the type of claim or specific case.
- B. Applicability of Attorney/Client privilege. The attorney/client privilege applies to any confidential communications between the Department and any branch of LTBB government, including elected and appointed officials, employees and agents.
- C. Constitutional questions.
 - 1. In the event of a disagreement between the Executive and Legislative branches on a constitutional question, the Department will participate in informal efforts to come to an agreement on such questions.
 - 2. The Department will only represent the position of the Executive in Tribal Court if both Tribal Council and the Executive concurs that it is in the Tribe's interest for the Department to represent the Executive in seeking Tribal Court resolution of a

constitutional issue.

SECTION IV. SAVINGS CLAUSE

In the event that any section, subsection or phrase of this Statute is found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such part 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 so long as the overall intent of the Statute remains intact.

SECTION V. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval which ever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly passed by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on November 18, 2007 at which a quorum was present, by a vote of 8 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	_____	_____	_____	X
Melvin L. Kiogima	X	_____	_____	_____
Dexter McNamara	X	_____	_____	_____
Marvin Mulholland	X	_____	_____	_____
Shirley Oldman	X	_____	_____	_____
Alice Yellowbank	X	_____	_____	_____
Gerald Chingwa	X	_____	_____	_____
Regina Gasco Bentley	X	_____	_____	_____
Beatrice A. Law	X	_____	_____	_____

Date: _____

Beatrice A. Law, Legislative Leader

Date: _____

Regina Gasco Bentley, Secretary

Received by the Executive Office on _____ by _____

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: _____

Frank Ettawageshik, Tribal Chairperson