

## **WAGANAKISING ODAWAK STATUTE 2008-001**

### **ADMINISTRATIVE PROCEDURES STATUTE**

#### **SECTION I PURPOSE**

This Administrative Procedures Statute is hereby enacted to establish a standard set of requirements for Executive Branch and Legislative Branch for Regulations; Administrative and Departmental Procedures; Executive Mandates and Directives; Legislative Directives and Resolutions and Tribal Councilor Special Tributes and Declarations. This statute shall repeal and replace the Administrative Procedures Statute 2005-015 and WOS 2006-28.

#### **SECTION II DEFINITIONS**

- A.** "Administrative Procedures" shall mean procedures required by a statute or regulation to clarify the implementation of a statute or regulation. These procedures shall not be a rewrite of the statute but define how an office or officer will implement the daily activities of a statute such as applications procedures and forms for a Tribal program.
- B.** "Departmental Procedures" shall mean procedures not required by statute or regulation.
- C.** "Constitution" or "Tribal Constitution" means the Constitution of the Little Traverse Bay Bands of Odawa Indians as adopted on February 1, 2005, and any amendments thereto.
- D.** "Executive Directive" shall mean a directive issued by the Tribal Chairperson that establishes basic internal rules of procedure, or guidelines for Executive departments and employees and does not impact Tribal Citizens or entities out-side of the Executive Branch.
- E.** "Legislative Directive" shall mean a directive issued by the Tribal Council that establishes basic internal rules of procedure, or guidelines for Tribal Council or Legislative employees and does not impact Tribal Citizens or entities out-side of the Legislative Branch.
- F.** "Tribal Regulations" shall mean regulations that implement a statute
- G.** "Tribal Code of Regulations" shall mean the codification of the approved Tribal Regulations.
- H.** The "Tribe" shall mean the Little Traverse Bay Bands of Odawa Indians.

#### **SECTION III TRIBAL REGULATIONS**

- A.** Regulations required by law shall be called Tribal Regulations.
- B.** The Tribal Executive shall develop Tribal Regulations to implement statutes that require

regulations.

- C.** Tribal Regulations shall be developed within 120 days of enactment of a law.
- D.** Tribal Regulations shall be forwarded to the Tribal Council for approval.
- E.** The Tribal Executive shall ensure that the benefits provided Tribal Citizens are carried out even if Tribal Regulations have not been developed or approved.

#### **SECTION IV REQUIREMENTS OF TRIBAL REGULATIONS**

- A.** The Executive may develop Regulations for such Statutes that the Executive deems necessary for the implementation of the intent of the Statute and shall forward such Regulations to the Tribal Council in accordance with this Statute. Such Statutes that mandate regulations, the Executive shall draft and submit Regulations to the Tribal Council in accordance with this Statute.
- B.** Tribal Regulations shall reflect the intent of the law. Tribal Regulations shall be written in a manner that protects the best interests of the Tribal Citizens.
- C.** Tribal Citizens shall be provided an opportunity to comment on proposed regulations prior to approval by the Tribal Council.
- D.** Tribal Regulations shall clearly identify for whom they are intended to apply.
- E.** Tribal Regulations shall be written in language that is clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.
- F.** Tribal Regulations shall be forwarded to Tribal Council for approval, in accordance with the Tribal Constitution, Article VII (D) (2).
  - 1.** Tribal Regulations shall be considered approved within one month of submission, provided Tribal Council shall have the authority to revoke part or all of the Tribal Regulations at any time after submission.
  - 2.** Rejections shall be sent to the Executive with an explanation of why they were rejected.
  - 3.** Rejections once rewritten shall be resubmitted to Tribal Council.
- G.** The Executive may implement interim regulations to carry out the intent of the law prior to the approval by Tribal Council.
- H.** Violations of Tribal Regulations shall be considered civil infractions and may carry penalties, fines or incarceration provided that any part of Tribal Regulation carrying such penalties shall require the express approval of Tribal Council.

## **SECTION V ADMINISTRATIVE PROCEDURES**

- A.** Procedures required by law or regulation shall be called Administrative Procedures.
- B.** The Tribal Executive shall develop Administrative Procedures to implement statutes and regulations that require procedures.
- C.** Administrative Procedures shall be developed within 120 days of enactment.
- D.** Administrative Procedures required by a statute shall be forwarded to the Tribal Council for approval.
- E.** The Tribal Executive shall ensure that the benefits provided Tribal Citizens are carried out even if Administrative Procedures have not been developed or approved.

## **SECTION VI REQUIREMENTS OF ADMINISTRATIVE PROCEDURES**

- A.** Administrative Procedures shall reflect the intent of the statute or regulation they are intended to implement. Administrative Procedures shall be written in a manner that protects the best interests of the Tribal Citizens.
- B.** Administrative Procedures shall clearly identify to whom they are intended to apply in whole or in part.
- C.** Administrative Procedures shall be written in language that will be clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.
- D.** Administrative Procedures that require Tribal Council approval shall:
  - 1.** Be considered approved within one month of submission, provided that Tribal Council shall have the authority to revoke part or all of the procedure at any time after submission.
  - 2.** Rejections shall be sent to the Executive with an explanation of why they were rejected.
  - 3.** Rejections once rewritten shall be resubmitted to Tribal Council.

## **SECTION VII DEPARTMENTAL PROCEDURES**

- A.** The Tribal Governmental offices, departments, and programs should develop Departmental Procedures to implement statutes and regulations that do not have a statutory requirement for procedures and when necessary to promote efficiency in their office.
- B.** Departmental Procedures are required to promote a fair and standard method of implementing daily activities of Tribal Departments.
- C.** Departmental Procedures shall reflect the intent of the program, statute or regulation they are

intended to implement. Departmental Procedures shall be written in a manner that protects the best interests of the Tribal Citizenship.

**D.** Departmental Procedures shall clearly identify to whom they are intended to apply in whole or in part.

**E.** Departmental Procedures shall be written in language that is clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.

## **SECTION VIII EXECUTIVE MANDATES**

**A.** The Tribal Executive is hereby mandated to publish all documents authorized by this statute on the Tribe's website. Additionally, any documents that required Tribal Council approval shall be posted on the Tribe's web-site for seven (7) working days to provide a method for Tribal Citizens to submit comments prior to approval by Tribal Council and the same shall be published within seven (7) working days after approval on the Tribe's web-site.

**B.** The Tribal Executive is hereby mandated to develop a standardized numbering system for Tribal Regulations to be adopted into a Tribal Code of Regulations, Administrative Procedures, and Departmental Procedures and establish a method of periodic review of approved regulations and procedures.

**C.** Tribal Regulations and Administrative Procedures may be presented for approval at the same time as their authorizing Statute.

**D.** The Tribal Executive Branch is hereby mandated to enforce all approved Tribal Regulations and to implement all required Administrative Procedures.

## **SECTION IX EXECUTIVE DIRECTIVES AUTHORIZED**

The Executive is hereby authorized to use Executive Directives and other such instruments deemed necessary for operation of the Executive provided that each instrument has an approved policy delineating its use. Directives and other such instruments under this section do not carry the force of law and must be published on the Tribe's web-site.

## **SECTION X TRIBAL COUNCIL DIRECTIVES AUTHORIZED**

The Tribal Council is hereby authorized to use Tribal Council Directives and other such instruments deemed necessary for operation of the Legislative Branch provided that each instrument has an approved policy delineating its use and Directives and other such instruments do not carry the force of law and must be published on the Tribe's web-site.

## **SECTION XI TRIBAL RESOLUTIONS**

- A.** In accordance with the Tribal Constitution, Article VII (D)(1), Resolutions carry the force of law and shall be sent to the Executive for signature.
- B. Certification.** Proof of passage of a Tribal Resolution shall be by written certification signed by both the Tribal Legislative Leader and the Tribal Secretary. The certification shall state at a minimum the date of passage, that a quorum of the Council was present, and a roll call record of the vote.
- C. Submission to Executive.** Upon passage and certification of Tribal Resolutions by the Tribal Council, the Tribal Council Secretary or designee shall send the certified original to the Executive for signature. Tribal Resolutions shall be enacted into law upon approval by signature of the Executive, or if not expressly vetoed by the Executive within thirty (30) days of submission. If expressly vetoed by written signature of the Executive within thirty (30) days of submission, such vetoed Tribal Resolution shall not become enacted law unless the Tribal Council, by an affirmative vote of seven (7) members of the Tribal Council in the same Election Cycle, votes to override a veto by the Executive.

## **SECTION XII TRIBAL COUNCILOR TRIBUTES AND DECLARATIONS**

- A.** A Special Tribute is a document that acknowledges or recognizes a person(s) or organization with gratitude, respect or admiration for an action or accomplishment. One or more Tribal Councilors may sign onto a Special Tribute as individual Councilors. A Special Tribute shall not obligate or commit the Tribal Council in any manner. Special Tributes do not require formal action by the Tribal Council.
- B.** A Declaration is a formal written public statement in support or opposition of an issue or matter. One or more Tribal Councilors may sign onto a Declaration as individual Councilors. A Declaration shall not obligate or commit the Tribal Council in any manner. Declarations do not require formal action by the Tribal Council.
- C.** Copies of all Special Tributes and Declarations shall be submitted to the Legislative Office for record keeping purposes.

## **SECTION XII 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.

## **SECTION XIII 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 January 6, 2008 at which a quorum was present, by a vote of 7 in favor, 2 opposed, 0 abstentions, and 0 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 V. Chingwa    |          | X       |           |        |
| Regina Gasco Bentley | X        |         |           |        |
| Beatrice A. Law      |          | X       |           |        |

Date: 1/08/08 Beatrice A. Law  
Beatrice Law, Legislative Leader

Date: 1-8-08 Regina Gasco Bentley  
Regina Gasco Bentley, Secretary

Received by the Executive Office on 1-9-08 by Paul Flynn

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: 1-25-2008 Frank Ettawageshik  
Frank Ettawageshik, Tribal Chairperson

