

**WAGANAKISING ODAWAK STATUTE 2009-021**  
**LAW ENFORCEMENT DEPARTMENT STATUTE**

**SECTION I.           SHORT TITLE AND PURPOSE**

This Statute shall be known as the “Law Enforcement Department Statute”

**SECTION II.           PURPOSE**

The Purpose of this Statute is to provide for the regulation of law enforcement through the creation of the “Tribal Law Enforcement Department” as an Executive Department to promote peace and safety.

**SECTION III.         DEFINITIONS**

The definitions apply in this Statute, unless the context otherwise requires.

- A.**     “Agreement” means the signed agreement between the “United States Secretary of the Interior and LTBB” that is a specific contract for law enforcement and provides for the Authority, Purpose, Service and Appropriations of how the department conducts business and provides law enforcement services, pursuant to provision of the Indian Self-Determination and Education Assistance Act, (25 U.S.C. 450 et seq.).
  
- B.**     “Department” means the Law Enforcement Department.
  
- C.**     “Director” means the Chief of the Law Enforcement Department.
  
- D.**     “Firearm” means a weapon from which dangerous projectiles may be propelled by use of explosives, gas, or air as a means of propulsion.
  
- E.**     “Law Enforcement” means law enforcement/ dispatch department of the Tribe.
  
- F.**     “Law Enforcement Officer” means a person who is properly commissioned,

deputized and authorized to enforce Tribal, Federal and State of Michigan laws.

- G.** “LTBB Reservation” means all lands and waters as described in the LTBB Constitution Article III (H).
- H.** “Tribe” or “LTBB” means the Waganakising Odawa, also known as the Little Traverse Bay Bands of Odawa Indians.

#### **SECTION IV. CREATION OF THE DEPARTMENT**

The Law Enforcement Department is hereby created within the Executive Branch to carry out the responsibilities of law enforcement within the Tribe’s jurisdiction including the enforcement of criminal and civil law, both Tribal and Federal as applicable and the promotion and protection of the health, safety and welfare of the Tribe and its Tribal Citizens.

#### **SECTION V. TRIBAL LAW ENFORCEMENT DIVISION**

- A.** The Department shall include a Law Enforcement Division to aid in the enforcement of Tribal laws and regulations concerning the protection and promotion of peace.

Primary and secondary duties of the Division include, but are not limited to:

##### **1. Primary Duties:**

- a) promote and protect the peace and safety through community policing, general patrol, traffic control, and assisting other departments and agencies;
- b) provide enforcement of violations of criminal law to the extent that Law Enforcement Officers are authorized through Tribal Council approved deputization, special commissions, agreements, or memoranda of understanding/agreements (MOU/MOA);

- c) provide enforcement of violations of civil law as designated by Tribal Council.
- d) provide primary responsibility for investigations, arrests, court appearances, crime prevention, evidence collection and submits incident reports to a prosecutor for adjudication in the appropriate court of jurisdiction.
- e) provide primary services such as homeland security, court officer, sex offender registry, dispatching/ criminal history and traffic enforcement.

**2. Secondary Duties:**

- a) provide aid or assistance to other law enforcement agencies when requested by a law enforcement agency;
- b) perform and participate in emergency management activities when requested by the Executive or designee;
- c) to take necessary and appropriate actions to enforce violations of civil or criminal law whether or not directly related to natural resource protection when in the course of carrying out their primary duties its officers encounter situations requiring law enforcement intervention to protect the public safety;
- d) participate in homeland security activities as requested by the Executive or designee;
- e) request aid of other law enforcement agencies when prudent to do so to address situations encountered in the course of carrying out primary duties.

**B. Tribal Law Enforcement Officers.** The Department shall employ Tribal Law Enforcement Officer(s) to carry out the duties and functions of the Division. Law Enforcement Officers of LTBB possess all of the privileges, powers and

immunities of any such officer.

**1. Oath of Office.**

Officers shall be sworn in by a Tribal judge to support, uphold, and defend the Constitution of the Tribe and to enforce the laws and regulations of the Tribe in accordance with this Statute.

**2. Firearms.**

Officers are authorized to carry firearms in the performance of their duties and are required to qualify semi-annually at a score of 80% (240) or better under the direction of a certified firearms instructor in accordance with Federal Law Enforcement Training Center firearm standards.

**C. Authorities.** Officers shall have the following authority in their enforcement of criminal and civil violations within the jurisdiction of the Tribe:

1. Execute any process for enforcement of criminal or designated civil Statutes;
2. Issue citations for civil violations;
3. Execute warrants issued for the arrest of violators;
4. Arrest, without warrant, any person committing a criminal violation in his/her presence;
5. Make arrests and issue citations for any violation within LTBB jurisdiction when in the course of carrying out their primary duties they encounter people with outstanding warrants, or who commit violations in their presence.
6. Serve subpoenas or other legal documents;
7. Execute searches with or without a warrant as allowable under law;

8. Apprehension of Suspected Violators
9. Use force only to a level which is necessary, reasonable and appropriate to achieve the desired legal objective or to protect himself/herself or others from an immediate threat of death or serious physical injury using the force continuum.
  - d) All reported use of force incidents shall be reviewed by the appropriate supervisor to determine whether:
    - i. any laws or departmental rules, policies were violated. All incidents involving the use of force that causes death shall be subject to both an administrative and criminal investigation.
    - ii. the relevant rule or policy was clearly understandable and effective to cover the situation.
    - iii. training is currently adequate.

**D. Regulations.** The Department shall have in place and adhere to written enforcement regulations as approved by Tribal Council.

**E. Agreements.** The Department shall abide by all terms and conditions set out in the Agreement between the United States Secretary of Interior and the Tribe.

**F. Handbook.** The Department and Law Enforcement Division shall abide by all processes and procedures set out in the United States Department of Interior, Bureau of Indian Affairs, Justice Services Handbook, July 1, 2008 or as amended.

## **SECTION VI. CRIMINAL INVESTIGATIONS**

The Chief of Police shall be notified of any and all criminal investigation that potential may involve violations of tribal law, including investigations by federal, state or local authorities.

**SECTION VII. SOVEREIGN IMMUNITY**

Nothing in this Statute shall forfeit Sovereign Immunity and personal liability immunity offered in any other Statute or Resolution for law enforcement employees while acting within the scope of their authority.

**SECTION VIII. SAVING CLAUSE**

In the event that any phrase, provision, part, paragraph, subsection or section of this Statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, 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 IX. 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 July 26, 2009 at which a quorum was present, by a vote of 5 in favor, 3 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 _____	_____	_____
Rita Shananaquet	X _____	_____	_____	_____
Alice Yellowbank	X _____	_____	_____	_____
Gerald V. Chingwa	_____	_____	_____	X _____
Regina Gasco Bentley	X _____	_____	_____	_____
Beatrice A. Law	X _____	_____	_____	_____

Date: 07/26/09

\_\_\_\_\_  
Beatrice Law, Legislative Leader

Date: 07/26/09

\_\_\_\_\_  
Regina Gasco Bentley, Secretary

Received by the Executive Office on 07/27/09 by \_\_\_\_\_  
LF

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: 08/10/09

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Frank Ettawageshik, Tribal Chairperson