

WAGANAKISING ODAWA



TRIBAL CODE of LAW

TITLE XV. GOVERNMENT DEPARTMENTS, PROGRAMS, OFFICES, AND COMMISSIONS, BOARDS AND COMMITTEES

2024.2

WANAKISING ODAWA TRIBAL CODE of LAW

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**TITLE XV. GOVERNMENT DEPARTMENTS, PROGRAMS, OFFICES, AND
COMMISSIONS, BOARDS AND COMMITTEES**

Chapter 1. Executive Commissions, Boards and Committees

15.101 PURPOSE

The purpose of this statute is to set forth general provisions applicable to Commissions, Boards and Committees within the Executive branch of the Little Traverse Bay Bands of Odawa Indians. These provisions do not apply to Commissions, Boards or Committees within the Legislative or Judicial branches of government, the Election Board, the Office of the Tribal Prosecutor, or Tribally chartered corporations. This statute repeals and replaces Waganakising Odawak Statute 2006-007.

(Source: WOS 2023-006, September 18, 2023, Section I)

15.102 RELATIONSHIP TO OTHER STATUTES

If the terms of this statute conflict with those of a statute establishing a specific Executive Commission or Board, the terms of the specific statute or resolution shall control.

(Source: WOS 2023-006, September 18, 2023, Section II)

15.103 DEFINITIONS

As used hereafter in this statute:

- A. “Commission” means a permanent commission or board within the Executive Branch of LTBB that is established by statute.
- B. “Committee” means a temporary committee within the Executive Branch of LTBB that is established by resolution for a limited time period and purpose.
- C. “Executive” means the Tribal Chairperson and the Vice-Chairperson of LTBB.
- D. “Immediate Family” means a person who is related to a Tribal Citizen by one of the

following relationships: wife, husband, son, daughter, mother, father, brother, sister, step-mother, step-father, step-brother, step-sister, father-in-law, mother-in-law, child, step-child, grandmother, grandfather, brother-in-law and sister-in-law.

E. “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

F. “Public” means Tribal Citizens of LTBB and their Immediate Family.

(Source: WOS 2023-006, September 18, 2023, Section III)

15.104 ESTABLISHMENT, DURATION AND AUTHORITY OF COMMISSIONS AND COMMITTEES

A. Commissions shall be established by statute and are perpetual.

B. Committees shall be established by resolution and shall expire 2 years from the date the authorizing resolution is enacted unless the resolution expressly provides otherwise.

C. The authority of Commissions and Committees shall be strictly limited to the performance of duties prescribed by the statute or resolution establishing them.

(Source: WOS 2023-006, September 18, 2023, Section IV)

15.105 ELIGIBILITY CRITERIA

A. Commissions

1. Only Tribal Citizens of LTBB shall serve on Commissions.

2. A Tribal Citizen shall serve on a maximum of two Commissions simultaneously.

3. Two or more members of the same immediate family shall not serve on the same Commission at the same time.

4. A Tribal Citizen shall not serve as Commission Chairperson if the Commission’s

work pertains to a specific Executive department and the director or assistant director of the department is an immediate family member of the Tribal Citizen.

5. Tribal government employees may serve on Commissions and receive a stipend if a Commission is not directly related to their employment, does not interfere with their work, and does not meet during scheduled work hours. With the consent of the Executive, a Tribal government employee may use PTO (paid time off) or flextime to avoid Commission-related conflicts with their employment duties.

B. Committees

1. Any person with relevant subject matter expertise may serve on a Committee.
2. The eligibility criteria for Commission members in Section VI(A)(3-5) shall also apply to Committee members.

(Source: WOS 2023-006, September 18, 2023, Section V)

15.106 COMMISSION AND COMMITTEE APPOINTMENTS

A. The Executive shall submit nominations to Tribal Council to fill Commission/Committee appointments within a reasonable period of time after the establishment of a Commission/Committee or a vacancy in a Commissioner/Committee seat. Acting Commission/Committee chairpersons shall give the Executive timely notice of any vacant seat.

B. All appointed Commission/Committee members shall take an oath of office administered by the Tribal Court prior to beginning their term of service.

(Source: WOS 2023-006, September 18, 2023, Section VI)

15.107 TERMS OF MEMBERS

A. The terms of Commission members shall begin and end on September 21 of the years corresponding with their appointment. Commission members may serve beyond the expiration of their term until they are reappointed and sworn in or a successor is appointed and sworn in.

B. Committee members shall serve until a Committee expires unless the resolution establishing the Committee provides otherwise.

C. All Commission and Committee members shall complete their terms unless they voluntarily resign or are removed earlier.

(Source: WOS 2023-006, September 18, 2023, Section VII)

15.108 NUMBER OF MEMBERS

A. Commissions shall be composed of at least three, but not more than five, members.

B. Committees shall be composed of at least three members.

(Source: WOS 2023-006, September 18, 2023, Section VIII)

15.109 QUORUM REQUIREMENTS

A. No Commission or Committee meetings shall be called to order without a quorum present, and no official business may be conducted absent a quorum.

B. A quorum shall consist of a simple majority of the total number of membership positions on the Commission or Committee, regardless of any vacancies. Thus, one member shall never constitute a quorum; two members shall constitute a quorum only where a Commission or Committee has three membership positions; and three members shall be necessary to form a quorum on Commissions or Committees with five membership positions.

(Source: WOS 2023-006, September 18, 2023, Section IX)

15.110 FREQUENCY OF MEETINGS

A. Commissions shall meet no more than twice monthly.

B. Committees shall meet as prescribed by the resolution establishing them.

C. The Executive may direct a Commission or Committee to increase the frequency of meetings when necessary to further the purposes of the Commission or Committee.

D. If vital interests of LTBB require immediate action prior to a regular or special meeting, such action may be taken by phone poll or teleconference call for the limited purpose of addressing a matter necessary to preserve or promote essential interests of the Tribe.

(Source: WOS 2023-006, September 18, 2023, Section X)

15.111 OPEN MEETINGS

A. Commissions and Committees shall provide public notice of their meetings as prescribed by applicable law and policy of LTBB.

B. Commission and Committee meetings shall be open to all Tribal Citizens, their Immediate Family and LTBB governmental employees except phone conferences and closed sessions.

C. Public comments shall be solicited at all Commission and Committee meetings. A reasonable amount of time for public comments shall be afforded.

D. Minutes shall be taken at all Commission and Committee meetings and, following Commission/Committee approval, promptly sent to the Executive for posting on LTBB's website. Minutes taken during closed session shall be redacted.

(Source: WOS 2023-006, September 18, 2023, Section XI)

15.112 REPORTS AND RECORDS

A. Commissions and Committees shall submit a report to the Executive on at least a quarterly basis.

B. Commission and Committee records shall be available to Tribal Citizens consistent with LTBB's Public Documents Statute, Title VI, Chapter 19.

(Source: WOS 2023-006, September 18, 2023, Section XII)

15.113 CLOSED SESSIONS

A. Commissions and Committees may enter into closed session to protect the interests of LTBB and fulfill their responsibilities to Tribal Citizens.

B. Commissions and Committees shall not discuss anything in closed session beyond the scope of the matters for which the closed session is called. Closed session shall be limited to matters concerning:

1. Child welfare;
2. Personnel under the authority of the Commission/Committee;
3. Litigation or legal issues directly related to the Commission/Committee; or
4. Other subjects that raise significant privacy or confidentiality concerns.

C. Commissions and Committees shall return to open session immediately upon completion of the closed-session discussions. Any action considered in closed session that can be taken in open session without harming Tribal interests shall be taken after the Commission/Committee returns to open session.

(Source: WOS 2023-006, September 18, 2023, Section XIII)

15.114 STIPENDS AND TRAVEL REIMBURSEMENT

A. Commission/Committee members may receive a stipend for attending required meetings subject to the availability of funds and the Commission's/Committee's compliance with applicable rules of procedure.

B. Commission/Committee members who attend a required meeting; any conference, training, meeting or hearing directly related to their duties; or any event where their attendance is required may be compensated for their reasonable costs of travel in accordance with the Tribal

Government Travel Policy for attendance so long as there are funds available in the Commission's/Committee's budget.

(Source: WOS 2023-006, September 18, 2023, Section XIV)

15.115 CONFLICT OF INTEREST

No Commission or Committee member shall participate in making any decision that involves a personal or financial interest including that of a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

(Source: WOS 2023-006, September 18, 2023, Section XV)

15.116 RULES OF PROCEDURE

The Executive shall promulgate regulations establishing rules of procedure applicable to all Commissions and Committees and otherwise implementing this statute.

(Source: WOS 2023-006, September 18, 2023, Section XVI)

15.117 APPLICATION OF INDIAN CIVIL RIGHTS ACT OF 1968

Commissions shall comply with the provisions of the Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-1303.

(Source: WOS 2023-006, September 18, 2023, Section XVII)

15.118 SAVINGS 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 or laws of LTBB, 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.

(Source: WOS 2023-006, September 18, 2023, Section XVIII)

15.119 EFFECTIVE DATE

This statute shall be effective upon the signature of the Executive, or 30 days from Tribal Council approval, or if the Executive vetoes the legislation, then upon the date on which Tribal Council overrides the veto.

(Source: WOS 2023-006, September 18, 2023, Section XIX)

Chapter 2. Removal of Commissioners

15.201 SHORT TITLE AND PURPOSE

- A. Short Title.** This Statute may be cited as the "Commissioner Removal and Nepotism Act."
- B. Purpose.** This Act sets out standard procedures for the removal of members of commissions of the Tribe, and rules regarding nepotism. This Act shall apply to all commissions of the Tribe unless otherwise specified in a specific commission statute. This Statute repeals and replaces the WOS 1997005 Removal of Commissioners and Nepotism Statute and WOS Removal of Commissioners and Nepotism 2001-10.

(Source: WOS 2016-001, February 26, 2016, Section I)

15.202 REMOVAL OF COMMISSIONERS

- A.** A Commissioner may only be removed for cause by a majority vote of Tribal Council.
- B.** Cause of removal shall be one of the following:
1. Unethical conduct, as defined by the Little Traverse Bay Bands of Odawa Constitutionally Mandated Rules of Conduct for Officials of Tribal Government or any other approved ethical standards.
 2. Physical or mental disability which prevents the performance of Commissioner's duties;
 3. Persistent failure to perform duties in a timely manner;
 4. Gross misconduct;
 5. Conviction of a felony.

(Source: WOS 2016-001, February 26, 2016, Section II)

15.203 ETHICS

Commissioners shall follow Constitutionally Mandated Rules of Conduct for Officials of Tribal Government or any other approved ethical standards.

(Source: WOS 2016-001, February 26, 2016, Section III)

15.204 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.

(Source: WOS 2016-001, February 26, 2016, Section IV)

15.205 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto, but shall not be implemented until after the next election and until the next Tribal Council or individual councilors are sworn in.

(Source WOS 2016-001, February 26, 2016, Section V)

Chapter 3. Service of Commissioners

15.301 CONTINUED SERVICE OF COMMISSIONERS

Members of the Tribal Commissions created pursuant to a Waganakising Odawak Statute will serve beyond the expiration of their terms until their successors are appointed and sworn in. This Statute repeals and replaces Waganakising Odawak Statute 1997002 which was enacted on February 16, 1997.

(Source: WOS 2001-08, April 22, 2001, Section I)

Chapter 4. Odawa Property Managers

15.401 REPEAL

The Odawa Property Managers Act, being Waganakising Odawak Statute 1999004, is hereby repealed.

(Source: WOS 2000-10, September 24, 2000, Section I)

Chapter 5. Gijigowi Bibskaabiimi Department

15.501 REPEAL

This chapter of the Gijigowi Bibskaabiimi is hereby repealed and replaced with Title VI, Chapter 38, Department of the Repatriation, Archives and Records, Waganakising Odawak Statute 2012-0002; Chapter 39, Education Department, Waganakising Odawak Statute 2012-003; Chapter 6, Gijigowi Anishnaabemowin Language Department, Waganakising Odawak Statute 2012-004..

(Source: WOS 2012-002, April 22, 2012 Section I; WOS 2012-003, April 22, 2012 Section I; WOS 2012-004, April 22, 2012 Section I)

Chapter 6. Enjinaaknegeng

15.601 PURPOSE

The purpose of this Statute is to set out the roles and functions of the Legal Department in accordance with the LTBB Constitution. This Statute repeals and replaces WOS 2014-008 Amending WOS 2011-008 Enjinaaknegeng; WOS 2011-008 Enjinaaknegeng; WOS 2007-009 Enjinaaknegeng; WOS 2012-006 The Office of Citizens Legal Assistance; WOS 2006-022 Office of the Legislative Services Attorney; and any other portion or portions of any and all Statutes that are inconsistent with this Statute.

(Source: WOS 2022-003, March 24, 2022, Section I)

15.602 DEFINITIONS

- A. **“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.
- B. **“Department”** means Enjinaaknegeng, the Legal Department.
- C. **“Executive”** means the Tribal Chairperson and Vice-Chairperson of the Executive Branch created under Article VIII of the Constitution, including their designees.
- D. **“Tribal Citizen”** means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.
- E. **“Tribal Council”** or **“Council”** means the elected body of the Little Traverse Bay Bands of Odawa Indians to carry out legislative powers under Article VII of the Constitution.
- F. **“Tribe”** or **“LTBB”** means the Waganakising Odawa, also known as the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2022-003, March 24, 2022, Section II)

15.603 LEGAL DEPARTMENT AUTHORITY

A. In accordance with Constitution, the Legal Department is under the authority of Tribal Council, Article VII (D)(14), but shall be available to assist the Executive and Executive Departments as set forth in this Statute.

B. The Department shall be made up of a General Counsel, Legislative Services Attorney, and Citizens Legal Assistance Attorney.

(Source: WOS 2022-003, March 24, 2022, Section III)

15.604 LEGAL DEPARTMENT DUTIES

A. The General Counsel shall provide legal services, counsel and representation of LTBB on legal matters, as per contract and/or job description, which may include, but not limited to, negotiations with federal, state, local and tribal governmental entities, issues relating to economic development, reserved Treaty rights, Indian child welfare policy, litigation, and work with subordinate Tribal entities including Tribally Chartered Corporations, Enterprises, Executive Departments, and Executive Commissions, Committees and Boards.

B. The Legislative Services Attorney shall provide legal services to Tribal Council and Tribal Council Committees as per contract, statute, and/or job description which may include, but not limited to, assisting one or more Tribal Councilors or committee members with drafting of Resolutions, Statutes, Certified Motions, policies, procedures, Legislative Directives, Declarations, Special Tributes, agreements, proposals, legal memorandums, MOUs, leases and contracts; provide legal advice in order to promote and protect Tribal Sovereignty, Tribal Self-sufficiency, and Tribal Self-determination; provide representation of Tribal Council in negotiations and court; and provide advice and analysis of the Tribal Constitution, Tribal Codes, state and federal laws and regulations for the Tribe and Tribal Council.

C. In the event that the Tribal government, or any Legislative or Executive officials or staff are sued in their official capacity, General Counsel and/or Legislative Services Attorney shall

defend such suits and ensure that Tribal Council receives proper notification, and shall raise sovereign immunity as a defense unless Tribal Council has taken an action to expressly waive sovereign immunity for the type of claim or specific case.

D. Assignments may be dispersed between General Counsel and Legislative Services Attorney based on allocation of resources and areas of expertise, as recommended by the Department and allocated by Tribal Council.

E. General Counsel and Legislative Services Attorney may also utilize outside attorneys and consultants 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.

F. General Counsel and Legislative Services Attorney 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.

G. Citizens Legal Assistance Attorney shall provide advice and assistance to Tribal Citizens on legal issues, provide legal guidance and draft documents, but cannot appear in Court on behalf of Tribal Citizens. The Citizens Legal Assistance Attorney shall maintain the attorney-client privilege relationship with respect to all communications between it and any Citizen it services and may assist with the following:

1. Estate Planning, including drafting of Wills, Power of Attorneys, Medical Power of Attorneys and Trusts;
2. Real Estate, including assisting with the purchase, sale, or transfer of real estate, including foreclosures or forfeitures;
3. Landlord/Tenant, assisting with evictions or any other issues with a landlord or tenant;

4. Divorce/Custody/Support, that may encompass child custody, visitation, or child support;
5. Probate of Estates, assisting with probating a Will in state or tribal court;
6. Criminal Matters shall be limited to explaining the legal process;
7. Civil Matters shall be limited to giving legal advice if the Tribal Citizen is involved in a civil lawsuit, including accusations of abuse or neglect of a child against a parent;
8. Paternity, DNA testing, Birth Certificates, includes establishing paternity, DNA testing, and making changes to birth certificates;
9. Guardianships and Conservatorships for minors or persons who are unable to care for themselves;
10. Driver's Licenses including license restored through the Secretary of State; and,
11. General legal advice can be given for any type of legal issue that a Tribal Citizen may have, except for issues that involve the Tribe.

H. The Citizens Legal Assistance Attorney may only provide procedural advice on matters that are criminal in nature, and matters involving the Tribe, Tribal Officials, Tribal Employees or other Tribal Citizens as a potential party in a dispute.

(Source: WOS 2022-003, March 24, 2022, Section IV)

15.605 CONFIDENTIALITY AND ATTORNEY/CLIENT PRIVILEGE

A. The attorney/client privilege to protect attorney work product, communications and information from unauthorized disclosure to any persons or entities outside of the Tribal government and governmental administration applies to any confidential communications between

the Department and any branch of LTBB government, including elected and appointed officials, employees and agents.

B. Unless otherwise stated in an attorney contract and/or job description, the attorney/client privilege applies to the Tribe as a whole. Officials, staff and agents have no individual expectation of privacy or attorney-client confidentiality. Attorneys may share any pertinent legal information with supervisors and Tribal Council.

C. Matters deemed confidential in a Tribal Council closed session shall not be disclosed to persons or entities not present in the closed session, including other branches of LTBB government and staff, unless otherwise directed by Tribal Council.

(Source: WOS 2022-003, March 24, 2022, Section V)

15.606 STAFFING

The Department shall begin operations with current attorneys and staff of the Legal Department, Legislative Services Attorney Office and Office of the Citizens Legal Assistance.

(Source: WOS 2022-003, March 24, 2022, Section VI)

15.607 BUDGET, PERSONNEL and ADMINISTRATIVE FUNCTIONS

A. The Legislative Services Attorney, working with staff shall present the Department's budget in accordance with *WOS 2020-006 Tribal Government Budget Formulation and Modification Process*, or as amended.

B. The Legislative Services Attorney shall have administrative authority for the Legal Department, including approving expenditures, travel, and other matters related to the Department's budget.

C. The Legislative Services Attorney shall have supervisory authority over the Legal Department's administrative staff.

D. Attorney hiring, and/or employment contracts, and Paid Time Off (PTO) must be approved by the Tribal Council, in accordance with Constitution Article VII (D)(14) and Attorneys shall report directly to Tribal Council.

E. Carry-Over Reserve Funds

1. Unspent annual budgeted funds for the Department shall carry over to the following year. The Department, as directed by Tribal Council, may utilize the cumulated funds for additional legal services or expense. Any carryover funds not expended will be carried to future years indefinitely unless otherwise re-appropriated by the Tribal Council. The Department shall provide reports quarterly or as otherwise requested by Tribal Council, on the status of the amounts and expenditures of these carry-over funds.

2. If Tribal Council makes a special appropriation for a distinct project or specific litigation, such specially appropriated funds will carry over as long as 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 General Fund-Funds Balance unless Tribal Council directs otherwise.

F. Under the supervision of the Legislative Services Attorney, administrative function for the Department will be through the Legislative Branch, as appropriate.

(Source: WOS 2022-003, March 24, 2022, Section VII)

15.608 OTHER RELATED STATUTES

See Waganakising Odawak Statute 2006-22, Office of Legislative Services Attorney; Waganakising Odawak Statute 2012-007, Office of Executive Services Attorney; 2012-006, Office of Tribal Citizens Legal Assistance; WOS 2020-006 Tribal Government Budget Formulation and Modification Process; or as amended.

(Source: WOS 2022-003, March 24, 2022, Section VIII)

15.609 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.

(Source: WOS 2022-003, March 24, 2022, Section IX)

15.610 EFFECTIVE DATE

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

(Source: WOS 2022-003, March 24, 2022, Section X)

Chapter 7. Eshkiniigijik-Tribal Youth Services

15.701 PURPOSE

The Tribal Youth are the Tribe's most vital and cherished future resource. To ensure that the Tribal Youth of the Little Traverse Bay Bands of Odawa Indians has the necessary opportunities to prepare them for their future, the Tribe will support the establishment and continuation of the Youth Department that will provide cultural, social, educational, and leadership opportunities. This Statute is hereby enacted to establish and continue the Tribal Youth Services Department and repeals and replaces any previous Statute including WOS 2006-012.

(Source: WOS 2015-22, December 2, 2015, Section I)

15.702 DEFINITIONS

- A.** “Cultural” means aspects of the Odawa history, spirituality, traditions, arts and crafts, values and mannerisms.
- B.** “Cultural Proficiency” means the knowledge, skills, and attitudes/beliefs that enable a person to work well with, respond effectively to, and be supportive of the Odawa Citizens.
- C.** “Department” means the Tribal Youth Services Department.
- D.** “Eshkiniigijik” or “Youth” means a person who is eighteen (18) years of age or younger.
- E.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
- F.** “Tribal Youth” shall mean youths who are Tribal Citizens, Tribal members of another recognized Tribe or youth who have community ties with the Tribe.
- G.** “Volunteer” shall mean an unpaid employee.

(Source: WOS 2015-22, December 2, 2015, Section II)

15.703 CREATION OF THE DEPARTMENT

A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation and continuation of the Youth Services Department within the Executive Branch of government..

(Source: WOS 2015-22, December 2, 2015, Section III)

15.704 RESTRICTIONS

A. The minimum standards of character shall mean a benchmark of moral, ethical, and emotional strengths established by character traits and past conduct to ensure that the individual is competent to complete his/her job without harm to Indian children. In order to protect Indian children, the Indian Health Services has established minimum standards of character requiring completion of a satisfactory background investigation that ensures that no individuals who have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense or any of two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children, are placed in positions involving regular contact with or control over Indian children, in accordance with 25 CFR 63.13.

B. These minimum standards shall apply to all Departmental Employees including Volunteers and any other person that has regular contact or control over Indian children.

(Source: WOS 2015-22, December 2, 2015, Section IV)

15.705 AUTHORITIES AND DUTIES

A. The Department shall have the following duties:

- 1.** Promote, design and implement Odawa cultural and Tribal social activities that meet the needs of the Tribal youth.
- 2.** Strive to improve and enhance opportunities for the Tribal Youth by identifying available national, state and tribal resources.
- 3.** Collaborate with other LTBB departments to provide service to the Tribal Youth regardless of geographical location.

(Source: WOS 2015-22, December 2, 2015, Section V)

15.706 STAFFING

A. If appropriate, the Department shall begin operations with currently employed LTBB staff as designated by the Executive.

B. Only persons who possess cultural proficiency shall be eligible for hire in this Department with the exception of hiring persons that provide technical expertise outside of the Odawa culture or Anishinaabemowin.

(Source: WOS 2015-22, December 2, 2015, Section VI)

15.707 REGULATIONS REQUIRED

The Executive shall develop Regulations for this Statute in order to implement the intent of the Statute and shall forward such Regulations to the Tribal Council for approval in accordance with Administrative Procedures 2008-001, or as amended.

(Source: WOS 2015-22, December 2, 2015, Section VII)

15.708 ADMINISTRATIVE PROCEDURES

Administrative Procedures shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act 2008-001, or as amended, in order to clarify the implementation of this statute by defining how the department will implement the daily activities of a statute such as applications procedures and forms for a Tribal program.

(Source: WOS 2006-012, July 25, 2006, Section VIII)

15.709 APPROPRIATIONS AUTHORIZED

The current appropriations for the Youth Services Department within the Executive budget shall be used to implement this statute along. The Executive may request additional supplemental funds necessary to meet the obligations of this Statute; and the Executive shall present Tribal Council with future annual budgets necessary to implement this statute.

(Source: WOS 2015-22, December 2, 2015, Section IX)

15.710 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.

(Source: WOS 2015-22, December 2, 2015, Section X)

15.711 EFFECTIVE DATE

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

veto.

(Source: WOS 2015-22, December 2, 2015, Section XI)

Chapter 8. Office of Legislative Attorney

Codification Note: The chapter previously located here has been repealed and replaced by WOS 2022-003 Enjinaaknegeng, See 15.601 of this Title.

Chapter 9. Land and Reservation

15.901 SHORT TITLE, PURPOSE AND DEFINITIONS

A. Short Title

This statute shall be entitled “The Land and Reservation.”

B. Purpose

The Land and Reservation Statute shall provide a process on how recommendation regarding land and reservation are ascertained, shall establish a Standing Committee of the Tribal Council with powers and authority, shall provide for the ability of the Committee to interact with the Judiciary and Executive on matters relating to land and reservation and shall define such powers and duties not explicitly enumerated in the LTBB Constitution related to land and reservation.

C. Definitions

As used in this Statute:

1. “Committee” shall mean “Tribal Council Land and Reservation Standing Committee”.
2. “LTBB” mean the Little Traverse Bay Bands of Odawa Indians or the Waganakising Odawa.
3. “Reservation” in accordance with Little Traverse Bay Bands of Odawa Indians Constitution, Article III, Section H, *means the lands within the boundaries of the reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Art I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future*

declared to be Little Traverse Bay Bands of Odawa Indians reservation by the U.S. Department of Interior.

(Source: WOS 2008-002, February 15, 2008, Section I)

15.902 DUTIES AND AUTHORITY OF THE TRIBAL COUNCIL

A. The Tribal Council has the following LTBB Constitutional powers regarding land and reservation:

- *Purchase, receive by gift, or otherwise acquire land, interests in land, personal property or other intangible assets which the Tribal Council may deem beneficial to the Little Traverse Bay Bands of Odawa Indians.*
- *Request lands be placed in trust with the United States for the benefit of the Little Traverse Bay Bands of Odawa Indians when the Tribal Council deems this beneficial to the Tribe.*
- *Approve land use plans and zoning of lands subject to the jurisdiction of the Little Traverse Bay Bands of Odawa Indians.*
- *Approve leases for Tribally owned land and lands held in trust for the Little Traverse Bay Bands of Odawa Indians by the United States subject to the approval of the Secretary of the Interior if required by Federal law.*
- *Approve all sales, or dispositions of Tribal lands, provided that such sale or disposition must also be approved by a majority vote by referendum, or by a quorum at an annual membership meeting.*

B. The Tribal Council shall create a standing committee of the Tribal Council to advise and make recommendations to the Tribal Council on matters related to above listed Constitutional land and reservation powers.

C. The Tribal Council may employ staff, legal counsel and/or consultants regarding the above listed Constitutional land and reservation powers.

(Source: WOS 2008-002, February 15, 2008, Section II)

15.903 CREATION OF THE COMMITTEE

A. The Tribal Council hereby creates the Land and Reservation Standing Committee of the Tribal Council and its membership shall consist of three (3) Tribal Council members assigned by motion and majority vote at a regularly scheduled Tribal Council meeting.

B. The Committee Chair shall be decided amongst the members of the Committee.

(Amendment Source: WOS 2013-013, November 3, 2013, Section III(A)) Note: WOS 2013-012 Repealed.

(Source: WOS 2008-002, February 15, 2008, Section III)

15.904 DUTIES OF THE COMMITTEE

A. The Committee shall develop policies, processes, and procedures to carry out its duties.

B. The Committee shall develop a strategic plan for Land and Reservation that outlines the goals and objective for the next two to five years to be presented to Tribal Council for approval.

C. The Committee shall hold meetings as necessary to carry out its authorized functions and duties and may hold executive sessions in accordance with the *Open Meetings Statute*.

D. The Committee shall not obligate or encumber the Tribe in any manner.

E. The Committee shall comply with approved meeting and hearing procedures which in the absence shall not impede progress of the committee;

F. The Committee shall make recommendations and advise the Tribal Council on matters related to land and/or reservation.

G. The Committee shall make known to the Tribal Council all Land and Reservation matters brought before it.

H. Tribal Council shall approve or disapprove the recommendations of the Committee by a majority vote of Tribal Council.

I. The Committee shall ensure that it maintains confidentiality involving land and reservation matters that may involve litigation, confidential business or legal matters, or other matters that raise significant privacy or confidentiality concerns.

(Source: WOS 2008-002, February 15, 2008, Section IV)

15.905 AUTHORITY OF THE COMMITTEE

A. The Committee may hold public hearings and solicit Tribal Citizen input on any and all matters within their authority and duties.

B. The Committee shall have the authority to request documents and information related to land and reservation from the Judiciary and Executive Departments, Programs and staff; including legal counsel and consultants.

(Source: WOS 2008-002, February 15, 2008, Section V)

15.906 COMPENSATION

Committee members and Tribal Council members shall be compensated in accordance with the Tribal Council's Stipend Policy for attendance at Land and Reservation meetings that are scheduled in advance and posted.

(Source: WOS 2008-002, February 15, 2008, Section VI)

15.907 SAVINGS 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.

(Source: WOS 2008-002, February 15, 2008, Section VII)

15.908 EFFECTIVE DATE

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

(Source: WOS 2008-002, February 15, 2008, Section VIII)

Chapter 10. Office of Finance and Revenue

15.1001 PURPOSE

The purpose of this Statute is to establish the Office of Finance and Revenue under the Little Traverse Bay Bands of Odawa Indians Legislative Branch and repeals and replaces Office of the Treasury, WOS 2011-013.

(Source: WOS 2016-005, August 26, 2016, Section I)

15.1002 DEFINITIONS

A. “Appropriation and Finance Committee” means the Tribal Council committee established by Statute.

B. “Legislative Branch” or “Tribal Council” means the elected body created under Article VII of the Little Traverse Bay Bands of Odawa Indians Tribal Constitution.

C. “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians or the Waganakising Odawa.

D. “Organization” means the Little Traverse Bay Bands of Odawa Indians Tribal government.

(Source: WOS 2016-005, August 26, 2016, Section II)

15.1003 AUTHORITY AND DUTIES

A. The Office of Finance and Revenue shall have the authority and duty to provide Tribal Council with professional financial advice regarding Tribal revenues, expense monitoring appropriation of funds, and budget processes. Activities include, but are not limited, to the following:

1. Work closely with Tribal Council and Tribal Council Committees as applicable.
2. Receive and analyze quarterly reports of all LTBB gaming and enterprise component units.
3. Directs and analyzes studies of general economic, business, and financial conditions and their impact on LTBB's policies and operations.
4. Appraise the organization's financial position and issue periodic reports on organization's financial stability, liquidity, and growth; and review of check registry for possible fraud and/or misappropriation of assets of the LTBB.
5. Oversee long range forecasting activities, investments, and bank loans
6. Oversee custody of funds, securities, and assets of LTBB.
7. Collaborate and coordinates the annual budget process for upcoming fiscal years.
8. Assist Tribal Council in identification of all funding sources, management of cash liquidity for current and future obligations, long range forecasting of economic revenues, investments, indirect cost and other cost allocation plans.
9. Prepares financial impact statements on pending legislation; including, but not limited to, grant request motions and appropriation requests.
10. Evaluates business partnering opportunities.
11. Represents the Tribal Council in establishing and maintaining contacts within the LTBB Tribe, outside financial institutions, and the investment community.
12. Assist with the raising of revenue in accordance with the Constitution.

13. Assist in the development of policies for receiving grants, donations or any other funding in accordance with the Constitution.
14. Assist organization's CFO with annual indirect cost proposal process.
15. Assist Tribal Council in procurement of financing when appropriate.
16. Assist the Tribal Council with the development of spending priorities.
17. Assist Tribal Council in approving an Independent Auditor for the Tribe's annual audit of Tribal accounts and receive, review and analyze all audits and audit findings or the organization and its component units..
18. Assist Tribal Council in developing policies that meet acceptable auditing standards.
19. Fulfills responsibilities as defined by Tribal Law, as applicable.
20. All other duties as assigned relevant to the position.

B. The Office of Finance and Revenue shall have the authority to receive all financial records of the Tribe and related LTBB entities, enterprises, chartered corporations, departments, divisions, commissions, board, committees, programs, grants and contractors. The requested records shall be made available with all due diligence.

C. The Office of Finance and Revenue shall have the authority to request information related to finances from LTBB entities, enterprises, chartered corporations, departments, divisions, commissions, board, committees, programs, grants and contractors. The requested information shall be made available with all due diligence.

D. Establish and maintain all necessary liaison and communication with the officials of the Tribe and related LTBB entities, enterprises, chartered corporations, departments, divisions, commissions, boards, committees, programs, grants and contractors, and state and federal agencies

for the furtherance and accomplishment of the purpose of the office.

E. Coordinate with the Executive, Judicial Branches, Prosecutor and Election Board in the development of accounting, budget formulation, and financial-related policies.

F. Be responsive to the requests of Tribal Council for specific information, providing management advisory services to the LTBB regarding finances, cash liquidity for current and future obligations, economic development, budgets and budget formulation processes, and compliance with financial documents and obligations.

G. Serve as one of the principal advisors to Tribal Council regarding accounting, systems and policies.

H. Exercise supervisory control and direction of all personnel within the office and maintain the highest standards of quality, ethics, independency and confidentiality. Review, modify and approve programs, reports and recommendations. Schedule and prioritize audits.

I. Represent Tribal Council on workgroups that are formed to address financial related legislation.

J. Represent the LTBB government within the areas of the responsibility and authority of the Office and as authorized by Tribal Council, in relations with all persons and organizations outside the LTBB, and in matters relating to cooperative activities with state or federal agencies.

K. Provide, to the extent necessary, training programs and library resources for the development of a well-qualified professional staff. Maintain a continuing education program designed to qualify staff personnel to meet the government standards.

L. Enter into agreements, as deemed necessary with LTBB, state or federal departments or offices for the sole purpose of accomplishing the objectives of the office, subject to review by and approval of Tribal Council.

M. Delegate authority to appropriate staff when necessary.

N. Report directly to Tribal Council or its designee on all operational issues and be responsible for the accomplishment of the purposes of the office.

(Source: WOS 2016-005, August 26, 2016, Section III)

15.1004 INTERNAL ORGANIZATION

A. The Department shall begin operations with currently employed LTBB staff as designated by Tribal Council.

B. All other personnel shall be hired and compensated pursuant to LTBB policies and procedures relating to qualifications, experience, Odawa preference, salaries, etc.

(Source: WOS 2016-005, August 26, 2016, Section IV)

15.1005 SAVINGS 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 or ordinances 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.

(Source: WOS 2016-005, August 26, 2016, Section V)

15.1006 EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the Executive.

(Source: WOS 2016-005, August 26, 2016, Section VI)

Chapter 11. Liquor and Tobacco Licensing Board Statute

(As required under 18 U.S.C. § 1161, the Department of the Interior published the Liquor and Tobacco Licensing Board Statute in the Federal Register on April 2, 2015, 80 FR 17779-01)

15.1101 SHORT TITLE

This Statute may be cited as the “Licensing Board.”

(Source: WOS 2009-019, July 26, 2009, Section I)

15.1102 PURPOSE

The purpose of this Statute is to provide for the establishment of the Liquor and Tobacco Licensing Board that issues, renews and regulates liquor and tobacco licenses and permits in order to protect the rights and interest of Tribal Citizens.

(Source: WOS 2009-019, July 26, 2009, Section II)

15.1103 DEFINITIONS

The following definitions apply in this Statute:

- A.** “Alcoholic Liquor” means the four varieties of liquor (alcohol, spirits, wine and beer) and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquor or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.
- B.** “Board” means the Liquor and Tobacco Licensing Board.

C. “Cigarette” means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any material, except where such wrapper is wholly or in the greater part made of natural leaf tobacco in its natural state.

D. “Licensee” means any person or entity, includes any employee or agent of the Licensee, licensed by the Tribe to sell alcohol or tobacco on Tribal trust lands.

E. “LTBB” or “Tribe” means the Waganakising Odawak Nation, also known as the Little Traverse Bay Bands of Odawa Indians.

F. “Person” or “Entity” means any individual, firm, partnership, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

G. “Tobacco Products” means all forms of tobacco prepared in such a manner as to be suitable for chewing or smoking including cigarettes, cigars, smoking tobacco, snuff, chewing tobacco.

H. “Tribal Court” means the Little Traverse Bay Bands of Odawa Tribal Court.

(Source: WOS 2009-019, July 26, 2009, Section III)

15.1104 LIQUOR AND TOBACCO LICENSES

A. Any person or entity that shall engage in the sale of alcohol or tobacco within the jurisdiction of the Tribe shall first obtain a license for such sale, provided that any person or entity engaging in such sales prior to the adoption of this Statute shall obtain a license within sixty (60) days for the enactment of this Statute.

B. A license shall be valid for a period of one (1) year from the date of its issuance and shall expire automatically without notice on the expiration date stated in the license.

- C. No license shall be transferable.
- D. Temporary licenses for a limited time-frame and purpose may also be available.

(Source: WOS 2009-019, July 26, 2009, Section IV)

15.1105 LIQUOR AND TOBACCO LICENSING BOARD

- A. The Liquor and Tobacco Licensing Board (“Board”) is hereby created within the Executive Branch to carry out the purposes stated in this Statute, and each annual budget submitted by the Executive shall include funding for the Board’s operation subject to funding availability.
- B. The Board shall adopt policies and regulation to carry out its duties under this Statute, subject to Tribal Council approval. General application of Commission, Board and Committee Statutes shall not apply to this board unless designated otherwise.
- C. The Board shall meet once a year in regular meetings and additionally if necessary within 15 days of receiving any request for action by the Board.
- D. Appointments, Term, Nepotism and Conflict
 1. The Board shall consist of three (3) members nominated by the Executive and confirmed by the Tribal Council. To be eligible for appointment a person must be a Tribal Citizen who is at least eighteen (18) years of age and is familiar with all Tribal liquor and tobacco laws, regulations, policies and procedures. One Board member will have at least 2 years of experience in law enforcement, legal or judiciary. The Board members shall serve three year terms with initial appointments being one member for one year, a second member for two years, and a third for three years to provide for staggered terms.
 2. Tribal employees may serve on the Board and may be compensated by stipend if the Board is not directly related to their employment, does not interfere with their

work, and does not meet during scheduled work hours. If a Board meets during scheduled working hours and the staff member wishes to attend, the staff member must utilize PTO (personal time off), or flextime upon prior approval of the individual's supervisor.

3. Two or more members of the same immediate family as defined in the Constitution shall not serve on the Board at the same time.
4. No Board member may participate in making any decision that involves a personal or financial interest of the Board or a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

E. Open Meetings and Records

1. Board meetings shall be open to LTBB Citizens.
2. Board records shall be open to LTBB Citizens.
3. The Board must provide notice of meetings at least five days in advance of the meeting.

F. Compensation and Stipends

1. Board members who attend any meeting or hearing directly related to their duties or attend any event where their attendance is required may be compensated for attendance so long as there are funds available in the Board's budget.
2. Board members shall receive a stipend for attendance at Board meetings subject to the availability of funds.
3. Any Board member who attends a properly noticed meeting shall be eligible for a stipend, mileage, and expenses, even if no official action can be taken due to lack of a quorum.

(Source: WOS 2009-019, July 26, 2009, Section V)

15.1106 AUTHORITY

- A.** The Board shall hear and decide the granting, denial or renewal of licenses and permits.
- B.** The Board shall hear and decide on the suspension or revocation of a license based on citations of violations.
- C.** The Board shall hear and decide appeals on the issuance of citations.
- D.** The Board may hire inspectors or investigators provided funding availability.

(Source: WOS 2009-019, July 26, 2009, Section VII)

15.1107 APPEALS OF CITATIONS TO THE BOARD

- A.** Any party who has received an issuance of citations and disagrees with the citation may appeal to the Board.
 - 1.** An appeal of a citation must be filed within fourteen (14) days of the issuance of the citation. The party must file a written appeal to the Board including at a minimum:
 - a.** A clear and concise statement of the reason(s) the appellant believes the decision should be overturned by the Board; and
 - b.** The relief requested from the Board.
- B.** The aggrieved party must be given an effective opportunity to defend themselves by confronting any adverse witnesses and by being allowed to present witnesses, evidence and arguments.
- C.** The Board shall hear the appeal within 15 calendar days of filing, either during a regular meeting or special meeting called for that purpose, and issue its written ruling within ten (10) days of such hearing.

(Source: WOS 2009-019, July 26, 2009, Section VIII)

15.1108 JUDICIAL REVIEW

- A.** Decisions of the Board may be appealed to the Tribal Court by filing a written appeal with the Court within ten (10) days of the Board’s ruling. The Court shall uphold the decision of the Board unless the Court determines that the Board’s decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations.
- B.** The Tribal Council expressly waives the sovereign immunity of the Tribe and its agents for the limited purpose of reviewing the decisions of the Board under the standards set forth in Section VI.A and allowing for the remedies set forth in Section VI.C.
- C.** In the event the Court finds the Board’s decision to be clearly arbitrary, capricious, or otherwise not in accordance with applicable law or regulations, it shall enter an equitable order overturning the Board’s action, but shall not award monetary damages.

(Source: WOS 2009-019, July 26, 2009, Section IX)

15.1109 SOVERIEGN IMMUNITY

The Tribe, and all of its constituent parts, which includes but is not limited to Tribal enterprises, subordinate organizations, boards, committees, officers, employees and agents, are immune from suit in any jurisdiction except to the extent that such immunity has been clearly and expressly waived by Tribe Council.

(Source: WOS 2009-019, July 26, 2009, Section X)

15.1110 REGULATIONS

The Executive may develop Regulations as it deems necessary for the implementation of the intent of this Statute and shall forward such Regulations to the Tribal Council for approval.

(Source: WOS 2009-019, July 26, 2009, Section XI)

15.1111 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.

(Source: WOS 2009-019, July 26, 2009, Section XII)

15.1112 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.

(Source: WOS 2009-019, July 26, 2009, Section XIII)

Chapter 12. Health Department

15.1201 PURPOSE

This Statute is hereby enacted to establish the Health Department that is responsible for overseeing all Health related programs and personnel including physical and mental health to ensure a holistic approach by respecting and intertwining both modern and traditional healing.

(Source: WOS 2010-002, June 6, 2010, Section I)

15.1202 DEFINITIONS

- D.** “Anishinaabemowin” means the language spoken by the Odawa people.
- E.** “Cultural” means aspects of the Odawa history, spirituality, traditions, arts and crafts, values and mannerisms.
- F.** “Cultural Proficiency” means the knowledge, skills, and attitudes/beliefs that enable a person to work well with, respond effectively to, and be supportive of the Odawa Citizens.
- G.** “Department” means Health Department.
- H.** “Director” means the Health Department Director.
- I.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2010-002, June 6, 2010, Section II)

15.1203 CREATION OF THE DEPARTMENT

A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not

limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation of the Health Department within the Executive Branch of government.

(Source: WOS 2010-002, June 6, 2010, Section III)

15.1204 AUTHORITY AND DUTIES

A. The Department shall have the following duties under the direction of the Director:

- 1.** Promote, design and implement health programs for each facet of our tribal community.
- 2.** Strive to improve and enhance the understanding of health related issues within our community and in the greater community.
- 3.** Assist with annual community events that incorporate health and wellbeing.
- 4.** Provide services and programs that increase health and wellbeing.
- 5.** Administer health-based programs, grants and projects that assist our Tribal Citizens with an awareness of the unique needs of our Tribal Citizens.
- 6.** Establish more interactive resources for tribal citizens that utilize the most current and feasible technologies.
- 7.** Administer all Indian Health Services’ health-related programs and funding received by the Tribe, as appropriate.
- 8.** Administer all funds and grants to the Tribe related to health matters, as

appropriate.

9. Establish appropriate programs such as health clinic, dental clinic, contract health, healthy start, community outreach, diabetes self-management, substance abuse, mental health and any other applicable health related opportunities.

(Source: WOS 2010-002, June 6, 2010, Section IV)

15.1205 STAFFING

A. The Department shall begin operations with current staff of the health clinic, dental clinic, contract health, healthy start, community outreach, diabetes self-management, substance abuse, mental health and any other applicable health related department, division or program, as appropriate.

B. The Director shall authorize and implement such divisions and programs as necessary to meet the health related needs of the Tribal community.

I. Only persons who possess cultural proficiency shall be eligible for hire in this Department with the exception of hiring persons that provide technical expertise outside of the Odawa Cultural or Anishinaabemowin.

(Source: WOS 2010-002, June 6, 2010, Section V)

15.1206 REGULATIONS REQUIRED

Any regulations shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act.

(Source: WOS 2010-002, June 6, 2010, Section IV)

15.1207 APPROPRIATIONS AUTHORIZED

Any current appropriations for the health clinic, dental clinic, contract health, healthy start, community outreach, diabetes self-management, substance abuse, mental health and any other applicable health related department, division or program, as appropriate, shall be used to implement this Statute and the Executive shall present Tribal Council with future annual budgets necessary to implement this Statute.

(Source: WOS 2010-002, June 6, 2010, Section VII)

15.1208 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.

(Source: WOS 2010-002, June 6, 2010, Section VIII)

15.1209 EFFECTIVE DATE

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

(Source: WOS 2010-002, June 6, 2010, Section IX)

Chapter 13. Repeal of Waganakising Odawak Statute 2010-007 Legal and Legislative Committee

15.1301 PURPOSE

The purpose of this Statute is to repeal the Waganakising Odawak Statute 2010-007 Legal and Legislative Committee Statute.

(Source: WOS 2015-021, November 13, 2015, Section I)

15.1302 FINDINGS and REPEALED

The Legal and Legislative Committee is no longer applicable to the current organization of the Little Traverse Bay Bands of Odawa Indians tribal government and WOS 2010-007, Legal and Legislative Committee Statute along with any of its policies are hereby repealed in its entirety.

(Source: WOS 2015-021, November 13, 2015, Section II)

15.1303 SAVINGS 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

(Source: WOS 2015-021, November 13, 2015, Section III)

15.1304 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override

of the veto.

(Source: WOS 2015-021, November 13, 2015, Section IV)

Chapter 14. Accounting Department

15.1401 PURPOSE

The purpose of this Statute is to create the Accounting Department to provide the administration of appropriations and accounting services for the Tribe, other than gaming related enterprises.

(Source: WOS 2011-009, May 2, 2011, Section I)

15.1402 DEFINITIONS

A. “*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.

B. “*Executive Branch*” means the Branch identified in Article VIII of the Tribal Constitution.

C. “*LTBB*” or “*Tribe*” for the purposes of this Statute means the three branches of government-Legislative, Executive and Judiciary, including the Election Board and Prosecutor’s Office of the Little Traverse Bay Bands of Odawa Indians.

D. “*Tribal Council*” or “*Council*” means the elected body of the Little Traverse Bay Bands of Odawa Indians to carry out legislative powers under Article VII of the Constitution.

(Source: WOS 2011-009, May 2, 2011, Section II)

15.1403 CREATION OF THE OFFICE

A. Pursuant to Article VI of the Tribal Constitution the Executive Branch administers the funds that are appropriated by Tribal Council.

B. The Tribal Council hereby creates and establishes the Accounting Department within the Executive Branch.

(Source: WOS 2011-009, May 2, 2011, Section III)

15.1404 AUTHORITY AND DUTIES

The Accounting Department shall have the following authority and duties:

- A.** To conduct internal audits in accordance with Generally Accepted Auditing Standards for internal audits to the extent those standards are not in conflict with the Constitution or laws of the Tribe.

- B.** To request information and documents from any Tribal Governmental Branch, Prosecutor's Office, Election Board including departments, boards, commissions, committees and businesses of the Tribe as it relates to the finances and accounting.

- C.** To oversee budgeting, accounting, purchasing and payroll for compliance with laws, regulations and Tribal Council approved policies, along with maintaining proper records to afford adequate accounting controls and services.

- D.** To establishes budget programs.

- E.** To oversee grant compliance.

- F.** To assist each of the governmental branches of government; Legislative, Executive, and Judiciary along with the Prosecutor's office and Election Board with any and all accounting, purchasing, budgets, compliance, grant compliance and any other accounting related matter.

- G.** To assist in the preparation of an annual report as mandated by the Constitution for distribution at the annual meeting that includes all appropriations of operating funds and Tribal enterprises by department showing how the funds were spent and profit and loss statements where applicable and submit same to Tribal Treasurer for approval.

- H.** To evaluate the program's expenditures, and audits of the government and businesses

of the Tribe and provide suggestions to the Executive and Tribal Council on methods to make the government more efficient, effective, and responsive to the needs of the Tribal Citizens.

I. To prescribe additional auditing standards and financial practices as necessary to be presented for approval by the Tribal Council.

J. To perform financial functions for the Tribe, other than gaming enterprises, such as payroll, accounts payable, revenue receipts, general ledger maintenance, cash management activities, bank reconciliations, and monitoring of grant activities and grants requirements.

K. To perform financial functions for the Tribal non-gaming enterprises and Tribally Chartered Corporations, if requested by said entity, such as payroll, accounts payable, revenue receipts, general ledger maintenance, cash management activities, bank reconciliations, and monitoring of grant activities and grants requirements.

L. To provide copies of all audits and findings to Tribal Council.

M. To provide Tribal Council quarterly reports, an annual report and an annual audited financial statements including all it enterprises and component units.

(Source: WOS 2011-009, May 2, 2011, Section IV)

15.1405 STAFFING

The Office shall begin operations with current staff of the accounting department.

(Source: WOS 2011-009, May 2, 2011, Section V)

15.1406 APPROPRIATIONS AUTHORIZED

Any current appropriations for the accounting department, as appropriate, shall be used to implement this Statute.

(Source: WOS 2011-009, May 2, 2011, Section VI)

15.1407 ADMINISTRATIVE PROCEDURES REQUIRED

Administrative Procedures shall be developed within One hundred and Twenty days (120) days by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act 2008-001, or as amended, in order to clarify the implementation of Waganakising Odawak Statute 2011-009 Accounting Department by defining how the Department will administer funds and services.

Source: WOS 2014-007 Amended 2011-009, August 7, 2014, Section VII by Override)

15.1408 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.

(Source: WOS 2014-007 Amended 2011-009, August 7, 2014, Section VIII by Override)

14.1409 EFFECTIVE DATE

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

(Source: WOS 2014-007 Amended 2011-009, August 7, 2014, Section IX by Override)

Chapter 15. Department of Repatriation, Archives and Records

15.1501 SHORT TITLE

This Statute shall be entitled “Department of Repatriation, Archives and Records” Statute. This statute rescinds and replaces “Gijigowi Bibskaabiimi” WOS 2010-008.

(Source: WOS 2012-002, April 22, 2012, Section I)

15.1502 PURPOSE

To create the Executive Department of the Repatriation, Archives and Records and to provide coordination and assistance for the MACPRA/NAGPRA Representative. The Department shall manage Tribal Archives and house and process Tribal records and assist the MACPRA/NAGPRA Representative with duties relating to the repatriation of Native American remains and cultural items and will receive and manage such items.

(Source: WOS 2012-002, April 22, 2012, Section II)

15.1503 DEFINITIONS

- A. “**Archives**” means the collection of tribal history and culture that is significant to the identity of Odawa people.
- B. “**Cultural**” means aspects of the Odawa history, spirituality, traditions, arts, values and mannerisms.
- C. “**Cultural Proficiency**” means the knowledge, skills, and attitudes/beliefs that enable a person to work well with, respond effectively to, and be supportive of the Odawa Citizens and Community.
- D. “**Department**” means the Repatriation and Archival Records Department.

E. “**MACPRA**” means the Michigan Anishnaabeg Cultural Preservation and Repatriation Alliance. An alliance of the Tribe of Michigan that defends and protects indigenous grave and traditional cultural properties.

F. “**NAGRPA**” means the Native American Graves Protection and Repatriation Act (as amended).

G. “**Remains**” means Tribal ancestral remains or Native American remains and/or funerary objects.

H. “**Representative**” means the person designated as the Tribe’s representative to MACPRA and authorized by NAGRPA on behalf of the Tribe.

I. “**Tribe**” means the Little Traverse Bay Bands of Odawa Indians or the Waganakising Odawa.

(Source: WOS 2012-002, April 22, 2012, Section III)

15.1504 CREATION OF THE REPATRIATION AND ARCHIVAL RECORDS DEPARTMENT

A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation of the Repatriation and Archival Records Department within the Executive Branch of government and shall be overseen by the Repatriation and Archival Records Department Director.

(Source: WOS 2012-002, April 22, 2012, Section IV)

15.1505**DEPARTMENT AUTHORITY**

- A.** Collect, preserve and manage any and all information about the Odawa people, both historical and contemporary, utilizing the most current methods of archival preservation and digitization in order to create a seamless process for internal creation of educational materials, programs, classes and resources.
- B.** Serve as a clearing house and storage facility for all government documents and products created through government processes and functions.
- C.** The Department shall coordinate with the Representative to ensure that the repatriation of Native Ancestral remains, cultural patrimony, and sacred objects to tribe is handled in a culturally significant manner.
- D.** The Department shall coordinate with the Representative to ensure that traditional cultural properties and sacred sites are protected.
- E.** The Department shall assist the Representative with administrative tasks and services.

(Source: WOS 2012-002, April 22, 2012, Section V)

15.1506**STAFFING**

- A.** If appropriate, the Department shall begin operations with currently employed LTBB staff as designated by the Executive.
- B.** All research, academic, and work products produced by the Department shall belong to the Tribe and be considered public documents.
- C.** Credits may be given for program and/or individual contributions to materials produced by the Department.
- D.** Copies may be used in educational promotion purposes; all copies shall include all original credits.

E. Copy for profit shall be prohibited.

F. Only persons who possess cultural proficiency shall be eligible for hire in this Department with the exception of hiring persons that provide technical expertise outside of the Odawa culture or Anishinaabemowin.

(Source: WOS 2012-002, April 22, 2012, Section VI)

15.1507 APPROPRIATIONS

The current appropriations for the Archives and Records Program within the Gijigowi Bibskaabiimi Department shall be used to implement this statute along with any additional supplemental funds necessary to meet the obligations of this Statute; and the Executive shall present Tribal Council with future annual budgets necessary to implement this statute.

(Source: WOS 2012-002, April 22, 2012, Section VII)

15.1508 REPEAL

Any Statute, Resolution or Regulation, or portion therein, that is in conflict with this Statute is repealed upon the effective date of this Statute.

(Source: WOS 2012-002, April 22, 2012, Section VIII)

15.1509 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.

(Source: WOS 2012-002, April 22, 2012, Section IX)

15.1510 EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto AND the passage of Waganakising Odawak Statute Education Department and Waganakising Odawak Statute Gijigowi Anishinaabemowin Language Department.

(Source: WOS 2012-002, April 22, 2012, Section X)

Chapter 16. Education Department

15.1601 PURPOSE

This Statute is hereby enacted to establish an Education Department. This statute rescinds and replaces “Gijigowi Bibskaabiimi” WOS 2010-008.

(Source: WOS 2012-003, April 22, 2012, Section I)

15.1602 DEFINITIONS

A. “**Cultural**” means aspects of the Odawa history, spirituality, traditions, arts, values and mannerisms.

B. “**Cultural Proficiency**” means the knowledge, skills, and attitudes/beliefs that enable a person to work well with, respond effectively to, and be supportive of the Odawa Citizens.

C. “**Department**” means Education Department.

D. “**Tribe**” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2012-003, April 22, 2012, Section II)

15.1603 CREATION OF THE DEPARTMENT

A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation of the Education Department within the Executive Branch of government, and shall be overseen by the Education Department Director.

(Source: WOS 2012-003, April 22, 2012, Section III)

15.1604 AUTHORITY AND DUTIES

B. The Department shall have the following duties:

1. Promote, design and implement cultural training programs for each facet of our Tribal community and Tribal government.
2. Strive to improve and enhance the understanding of Tribal culture within our community and in the greater community.
3. Collaborate with other LTBB departments to infuse culture and spirituality into their programs and activities.
4. Assist with annual community events that incorporate Odawa traditions and culture.
5. Provide services and programs that increase accessibility to two kinds of "traditional" education in tandem: formal, mainstream schooling and culturally-based, spiritual teachings.
6. Administer education-based programs, grants and projects that assist our people to reach their personal and educational goals with an awareness of the unique needs of our Tribal Citizens.
7. Utilize the cultural knowledge of our ancestors and our elders to pursue and provide programs, activities, initiatives and grant-supported projects for our youth that work to instill pride in our children in being Odawa.
8. Establish more interactive resources for Tribal Citizens that utilize the most current and feasible technologies.

9. Administer all BIA education-related programs and funding received by the Tribe.
10. Establish appropriate programs such as Head Start, Kindergarten through Twelfth grade, Adult Education, and General Educational Development (GED) programs, Adult Vocational Training (AVT), Higher Education, Educational Grants and Cultural Learning Programs and any other applicable learning opportunities.
11. Establish an educational center that enables Tribal Citizens and the greater community members to access historical information and data.
12. Establish and maintain a cultural library.

(Source: WOS 2012-003, April 22, 2012, Section IV)

15.1605 STAFFING

- A. If appropriate, the Department shall begin operations with currently employed LTBB staff as designated by the Executive.
- B. All research, academic, and work products produced by the Department shall belong to the Tribe and be considered public documents.
- C. Credits may be given for program and/or individual contributions to materials produced by the Department.
- D. Copies may be used in educational promotion purposes; all copies shall include all original credits.
- E. Copy for profit shall be prohibited.
- F. Only persons who possess cultural proficiency shall be eligible for hire in this Department

with the exception of hiring persons that provide technical expertise outside of the Odawa culture or Anishinaabemowin.

(Source: WOS 2012-003, April 22, 2012, Section V)

15.1606 REGULATIONS REQUIRED

Any regulations shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act.

(Source: WOS 2012-003, April 22, 2012, Section VI)

15.1607 APPROPRIATIONS AUTHORIZED

The Tribe has established Educational programs within the Gijigowi Bibskaabiimi Department. Upon the enactment of this Statute, the Educational program funds will be moved under the Education Department with the current appropriations for the Educational programs within the Gijigowi Bibskaabiimi Department along with any additional supplemental funds necessary to meet the obligations of this Statute; and the Executive shall present Tribal Council with future annual budgets necessary to implement this statute.

(Source: WOS 2012-003, April 22, 2012, Section VII)

15.1608 REPEAL

Any Statute, Resolution or Regulation, or portion therein, that is in conflict with this Statute is repealed upon the effective date of this Statute.

(Source: WOS 2012-003, April 22, 2012, Section VIII)

15.1609 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.

(Source: WOS 2012-003, April 22, 2012, Section IX)

15.1610 EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto AND the passage of Waganakising Odawak Statute Department of the Repatriation, Archives and Records and Waganakising Odawak Statute Gijigowi Anishinaabemowin Language Department.

(Source: WOS 2012-003, April 22, 2012, Section X)

Chapter 17. Gijigowi Anishinaabemowin Language Department

15.1701 PURPOSE

This Statute is hereby enacted to establish the Anishinaabemowin Department for promoting and revitalizing Anishinaabemowin. This Statute is in honor of Gijigowi, Victor Simon Kishigo, for his dedication and work to revitalize Anishinaabe Culture and Anishinaabemowin. This statute rescinds and replaces “Gijigowi Bibskaabiimi” WOS 2010-008.

(Source: WOS 2012-004, April 22, 2012, Section I)

15.1702 DEFINITIONS

- A. **“Anishinaabemowin”** means the language spoken by the Odawa people in accordance with the Constitution, Article III (B).
- B. **“Cultural”** means aspects of the Odawa history, spirituality, traditions, arts, values and mannerisms.
- C. **“Cultural Proficiency”** means the knowledge, skills, and attitudes/beliefs that enable a person to work well with, respond effectively to, and be supportive of the Odawa Citizens and Community.
- D. **“Department”** means the Gijigowi Anishinaabemowin Language Department.
- E. **“Tribe”** or **“LTBB”** means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2012-004, April 22, 2012, Section II)

15.1703 CREATION OF THE GIJIGOWI ANISHINAABEMOWIN DEPARTMENT

- A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have

the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation of the Anishinaabemowin Department titled “Gijigowi Anishinaabemowin Language Department” within the Executive Branch of government and shall be overseen by the Language Department Director.

(Source: WOS 2012-004, April 22, 2012, Section III)

15.1704 AUTHORITY AND DUTIES

A. The Department shall have the following duties:

1. Shall promote the preservation and revitalization of Anishinaabemowin and Anishinaabe culture.
2. Shall be responsible for administering all funds and grants to the Tribe related to Anishinaabemowin.
3. Shall be tasked with developing Anishinaabemowin resources, including curriculum, training aids, video and audio products.
4. Shall provide Anishinaabemowin educational programs.
5. Shall be responsible for adopting a common method of spelling.
6. Shall be responsible for assisting all LTBB governmental entities and enterprises with formal Anishinaabek names or requests.

(Source: WOS 2012-004, April 22, 2012, Section IV)

15.1705 STAFFING

- A.** If appropriate, the Department shall begin operations with currently employed LTBB staff as designated by the Executive.
- B.** All research, academic, and work products produced by the Department shall belong to the Tribe and be considered public documents.
- C.** Credits may be given for program and/or individual contributions to materials produced by the Department.
- D.** Copies may be used in educational promotion of Anishinaabemowin; all copies shall include all original credits.
- E.** Copy for profit shall be prohibited.
- F.** Only persons working towards or have obtained fluency in Anishinaabemowin and possess Cultural Proficiency shall be eligible for hire in this Department with the exception of hiring persons that provide technical expertise outside of Anishinaabemowin.

(Source: WOS 2012-004, April 22, 2012, Section V)

15.1706 REGULATIONS REQUIRED

Any regulations shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act.

(Source: WOS 2012-004, April 22, 2012, Section VI)

15.1707 APPROPRIATIONS AUTHORIZED

The Tribe has established an Anishinaabemowin Language Program within the Gijigowi Biskaabiimi Department. Upon the enactment of this Statute, the language program funds will

be moved under the Language Department along with any additional supplemental funds necessary to meet the obligations of this Statute; and the Executive shall present Tribal Council with future annual budgets necessary to implement this statute.

(Source: WOS 2012-004, April 22, 2012, Section VII)

15.1708 REPEAL

Any Statute, Resolution or Regulation, or portion therein, that is in conflict with this Statute is repealed upon the effective date of this Statute.

(Source: WOS 2012-004, April 22, 2012, Section VIII)

15.1709 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.

(Source: WOS 2012-004, April 22, 2012, Section IX)

15.1710 EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto AND the passage of Waganakising Odawak Statute Education Department and Waganakising Odawak Statute Department of the Repatriation, Archives and Records.

(Source: WOS 2012-004, April 22, 2012, Section X)

Chapter 18. Office of Citizens Legal Assistance

Codification Note: The chapter previously located here has been repealed and replaced by WOS 2022-003 Enjinaaknegeng, See 15.601 of this Title.

Chapter 19. Office of Executive Services Attorney

15.1901 ESTABLISHMENT

This Statute hereby establishes under the Executive an office to be known as the Office of the Executive Services Attorney, also referred to in this Statute as the "Office".

(Source: WOS 2012-007, July 8, 2012, Section I)

15.1902 PURPOSE

The purpose of the Office shall be to provide legal advice to the Tribal Chair and assist the Tribal Chair in carrying out the duties of the Tribal Chair.

(Source: WOS 2012-007, July 8, 2012, Section II)

15.1903 POLICY

The Office shall maintain impartiality as to issues of Executive policy to be determined by the Tribal Chair, and shall not advocate the adoption or rejection of any policy decisions. The Office shall maintain the attorney-client relationship with respect to all communications between it and the Tribal Chair and shall serve as the attorney for the Tribal Chair in any court action.

(Source: WOS 2012-007, July 8, 2012, Section III)

15.1904 FUNCTIONS

The functions of the Office shall be as follows:

- A.** Upon request of the Tribal Chair, to assist in the drafting of regulations, resolution, policies, statutes, and accompanying reports, in accordance with the policy objectives of the Tribal Chair.

- B.** Provide legal counsel and services upon request of the Tribal Chair.
- C.** To objectively advise Tribal Chair on interpretation of any legislation, regulations, resolutions or policies.

(Source: WOS 2012-007, July 8, 2012, Section IV)

15.1905 STAFFING

The Office will be staffed by an Executive Services Attorney, and such staff as may be provided for in a budget approved by Tribal Council.

(Source: WOS 2012-007, July 8, 2012, Section V)

15.1906 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.

(Source: WOS 2012-007, July 8, 2012, Section VI)

15.1907 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.

(Source: WOS 2012-007, July 8, 2012, Section VII)

Chapter 20. Department of Human Services

15.2001 PURPOSE

The purpose of the Statute is to establish a Little Traverse Bay Bands of Odawa Indians (LTBB) governmental Executive department entitled “Department of Human Services” that shall work with families in a way that is characteristic of the LTBB inherent cultural traditions, customs, and values and address the well-being and protection of LTBB children, adults, families, communities and the Tribe.

(Source : WOS 2012-009, August 5, 2012, Section I)

15.2002 DEFINITIONS

- A.** “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.
- B.** “Executive Branch” means the Branch identified in Article VIII of the Tribal Constitution.
- C.** “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
- D.** “Tribal Council” or “Council” means the elected body of the Little Traverse Bay Bands of Odawa Indians to carry out legislative powers under Article VII of the Constitution.

(Source: WOS 2012-009, August 5, 2012, Section II)

15.2003 CREATION OF THE OFFICE

- A.** Pursuant to Article VII of the Tribal Constitution the Legislative Branch approves the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members.

B. The Tribal Council hereby creates and establishes the Department of Human Services within the Executive Branch.

(Source: WOS 2012-009, August 5, 2012, Section III)

15.2004 AUTHORITY AND DUTIES

The Department of Human Services shall:

A. Provide a high level of social well-being essential to the improvement of the quality of life within the Tribe by providing programs that emphasize prevention and preservation of the family.

B. Act as the outreach center that oversees resources administered through the Department so Tribal Citizens can make decisions and choices affecting their present and future economic and social stability. Provide for effective communication and dissemination of Tribal information to the Tribal community regarding Departmental services.

C. Promote family unity and well-being through protection of LTBB children, adults, families, communities and the Tribe.

D. Collaborate, consult and negotiate with tribal, state and federal agencies for the purpose of promoting the wellbeing of all Tribal Citizens and citizens from other tribes including issues surrounding any child and adult welfare.

E. Have responsibility for investigating Indian child welfare and adult welfare matters, including interaction with state, federal and other tribal human services agencies.

F. Work with appropriate officials and departments to draft petitions for the protection of children and adults.

G. In conjunction with the Child Welfare Commission, determine appropriate placement recommendations to the Presenting Office and Court for child welfare matters.

- H.** Determine appropriate placement recommendations for adult welfare matters.
- I.** Maintain appropriate documentation and records according to applicable laws.
- J.** Provide direct services to clients in need via effective and documented case management as well as link them to other available resources.
- K.** When implementing services to a minor child, the child’s family will have an opportunity to be involved in decisions affecting services for that child.

(Source: WOS 2012-009, August 5, 2012, Section IV)

15.2005 INTERNAL ORGANIZATION

- A.** The Department of Human Services shall consist of such divisions, branches, and offices necessary for the execution of its mission, performance of its mandated functions, and to achieve its annual goals and objectives.
- B.** The Department shall employ staff professionals and support personnel and/or contract with professional service firms as determined by the Director and consistent with the laws of LTBB. Such staff professionals and support personnel and/or professional firms shall meet minimal background standards for employment.
- C.** The Department shall maintain a current organizational chart. The organizational chart shall accompany its annual budget submission and any supplemental funding requests in accordance with the *LTBB Budget Formulation Process*.
- D.** The Department Director shall be a full-time employee and paid compensation commensurate with his or her skills, education, experience, and responsibilities and within the standards of compensation established by LTBB.
 - 1.** The Director shall be responsible for operating within the annually appropriated budget for the Department.

2. The Director may not serve as an ex officio member of any LTBB commissions, committees or boards.

E. The Department shall work with the Child Welfare Commission in accordance with the Child Welfare Commission and Child Protection Statutes. The Child Welfare Commission shall be consulted during the development of the Department's annual goals and objectives and issues that involve child protection and welfare.

F. Annual Report.

The Department of Human Services shall prepare a final written annual report within thirty (30) calendar days of the end of each fiscal year. It will report on the activities of the Department, achievement of the goals and objectives for the previous fiscal year, and the impact, if any, of fiscal constraints on its current goals and objectives. The Report shall be submitted to the Executive who shall provide it to Tribal Council within thirty (30) calendar days of receipt.

(Source: WOS 2012-009, August 5, 2012, Section V)

15.2006 STAFFING

Any current employees for the Human Services Department shall remain and be used to implement this Statute.

(Source: WOS 2012-009, August 5, 2012, Section VI)

15.2007 APPROPRIATIONS AUTHORIZED

Any current appropriations for the Human Services Department, as appropriate, shall be used to implement this Statute and the Executive shall present Tribal Council with future annual budget requests necessary to implement this Statute.

(Source: WOS 2012-009, August 5, 2012, Section VII)

15.2008 REGULATIONS

Regulations and/or policies promulgated to implement this Statute shall follow the Administrative Procedures Act.

(Source: WOS 2012-009, August 5, 2012, Section VIII)

15.2009 ADMINISTRATIVE PROCEDURES REQUIRED

Administrative Procedures shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act 2008-001, or as amended, in order to clarify the implementation of this Statute by defining how the department will implement daily activities.

(Source: WOS 2014-004, May 6, 2014, Section IX)

15.2010 SAVINGS 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 or ordinances 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.

(Source: WOS 2012-009, August 5, 2012, Section IX)

15.2011 EFFECTIVE DATE

Effective upon signature of the Executive or shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission. The Tribal Council may, by an affirmative vote of seven (7) members of the Tribal Council, override a veto by the executive.

(Source: WOS 2014-004, May 6, 2014, Section X)

Chapter 21. Tribal Historic Preservation Office Statute

Codification Note: Repeals and replaces WOS 2018-022

15.2101 PURPOSE

The purpose of this Statute is to establish the Tribal Historic Preservation Office (THPO) that assumes the duties under National Historic Preservation Act of 1966, as amended (NHPA) within the exterior boundaries of the Little Traverse Bay Bands of Odawa Indians (LTBB) reservation; and fulfills the duties of the Native American Graves Protection and Repatriation Act (NAGPRA) representative(s); and such others as duties and functions as designated by Tribal Council. This Statute repeals and replaces Waganakising Odawak Statute 2018-022 Tribal Historic Preservation Office Protection and Management of Archaeological, Historical and Cultural Properties and Cultural Resources, 2014-013, 2013-002, and any and all previous Statutes.

(Source: WOS 2019-006, June 12, 2019, Section I)

15.2102 ABROGATION AND GREATER RESTRICTIONS

- A. Where this Statute imposes greater restrictions than those contained in relevant Federal Laws and Regulations, this Statute shall govern.
- B. Other Federal laws and regulations that apply to Tribal Lands administered by the Bureau of Indian Affairs, but may be superseded by this Statute include: National Historic Preservation Act of 1966, as amended (NHPA), 16 U.S.C. 470(1988); Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469; National Environmental Policy Act (NEPA), 42 U.S.C. 4321 (1988); 36 C.F.R. Part 800: Protection of Historic Properties; American Indian Religious Freedom Act (AIRFA), 42 U.S.C. 1996 (1988); Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), 25 U.S.C. 3001; Archaeological Resources Protection Act of 1979, as amended (ARPA), 16 U.S.C. 470; and Executive Order 13007.
- C. This Statute shall not affect the application of separate actions occurring under State or

Federal laws.

(Source: WOS 2019-006, June 12, 2019, Section II)

15.2103 APPLICABILITY

This Statute shall apply to all individuals, activities, and property, whether free or in trust, within the exterior boundaries of the Little Traverse Bay Bands of Odawa Indians Reservation.

(Source: WOS 2019-006, June 12, 2019, Section III)

15.2104 DEFINITIONS

A. “Ancestral Remains” means Tribal ancestral remains or Native American remains along with any funerary objects.

B. "BIA-MAO" means the Bureau of Indian Affairs-Minneapolis Area Office.

C. "Burial Site" means any place of interment, by any means, natural or a physically prepared location, whether originally below, on, or above the surface of the earth, where human remains or associated funerary objects are deposited, as part of the death rites of ceremonies of a culture.

D. “Consultant” means individuals with expertise who meet the United States, Department of Interior Secretary's Standards.

E. "Funerary Objects" means objects, that as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later.

F. "Historic Preservation” means the research, protection, restoration, and rehabilitation of historic properties and resources.

G. "Human Remains" includes any part of a deceased human being in any state of

decomposition, including the surrounding soil immediately within and adjacent to the burial.

H. “Land and Reservation Committee” means the standing Committee of Tribal Council.

I. “NAGPRA” means the Native American Graves Protection and Repatriation Act (as amended).

J. "Reservation" means all lands within the boundaries of the Reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 Reservation is determined to include lands which are not included within the 1855 Reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse Bay Bands of Odawa Indians Reservation by the U.S. Department of the Interior.

K. “Secretary” means the United States, Department of Interior Secretary.

L. "THPO" means the Tribal Historic Preservation Office composed of the Tribal Historic Preservation Officer and staff.

M. “Tribal Citizen" means a person enrolled with the Tribe.

N. “Tribal Culturally Significant Sites” means sites that are currently or in the past used by the Tribe or its Tribal Citizens for gathering of medicines, conducting ceremonies or other tribal activities; or the site is associated with the cultural practices or beliefs of a Tribal community; or the site is closely tied to the cultural identity of the community.

O. “Tribal Historic Properties” means any prehistoric or historic sites, districts, structures, or objects that are significant to the prehistory, history, architecture, archeology, culture, or spiritual nature of the Tribe,

P. “Tribal Sacred Site” means any specific, discrete, narrowly delineated location that is identified as sacred by virtue of its established religious significance or ceremonial use.

Q. "Tribe" means the Little Traverse Bay Bands of Odawa Indians.

R. "Undertaking" includes any project, activity, or program and any of its elements that may have potential to affect an historic property, burial site, human remains, sacred site or traditional cultural property and includes construction, rehabilitation, planning, repair projects, land clearing, licenses, and permits for buildings, roads and development.

(Source: WOS 2019-006, June 12, 2019, Section IV)

15.2105 TRIBAL HISTORIC RESERVATION OFFICE DUTIES AND AUTHORITY

A. A Tribal Historic Preservation Office (THPO) shall be established within the Legislative Branch to increase efforts in locating, documenting, and evaluating historic properties. This information shall provide a record of the past for future generations and a copy of the record shall be housed with the Department of Repatriation, Archives and Records. Information on historic properties recorded in the ceded territory shall also be collected, evaluated, and recorded, and the THPO shall have the following duties:

- 1.** In cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct, conduct and maintain a comprehensive Tribal-wide survey of historic properties and maintain inventories of such properties within the exterior boundaries of the Tribe's reservation and shall maintain the system for the survey and inventory of historic properties.
- 2.** With Tribal Council approval via the Land and Reservation Committee, the THPO shall identify and nominate eligible properties to the National Register, and otherwise submit applications for listing historic properties on the National Register;
- 3.** Establish and maintain the Odawa Historic and Cultural Site Registries in accordance with applicable laws.

4. Prepare and implement a comprehensive Tribal-wide historic preservation plan;
5. The THPO shall administer Federal assistance funds received by the Tribe for Historic Preservation activities;
6. Advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;
7. Cooperate with the LTBB Tribe, Secretary, the Advisory Council on Historic Preservation, and other Tribal, Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;
8. Provide public information, education, and training, and technical assistance in historic preservation;
9. Consult with the appropriate Federal agencies in accordance with the National Historic Preservation Act on— (i) Federal undertakings that may affect historic properties; and (ii) the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties; and Advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance;
10. The THPO shall provide a report to the Tribal Council monthly or as requested by Tribal Council;
11. The THPO will hold public hearings to gather information from the Tribal Community and Citizens; and provides for adequate public participation in the THPO program, including the process of recommending properties for nomination to the National Register; and
12. The THPO may share information regarding repatriation of remains and protection of traditional cultural properties the Tribal Community and Citizens.

13. The THPO shall assume responsibility under 16 U.S.C. 470a section 101 (d) 6 and in cooperation with the State Historic Preservation Officer, determine and recommend properties for inclusion on the National Register, properties that are of traditional, religious/spiritual and cultural importance to the Tribe.

14. The THPO shall assume responsibility under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C 306108.

B. The Department of Repatriation, Archives and Record shall be the permanent repository for cultural materials discovered on Tribal and allotted lands. Access to the use of collections for educational and research purposes, shall be controlled by the Department.

C. The THPO Office may utilize consultants, as needed, who meet the Secretary's Standards.

(Source: WOS 2019-006, June 12, 2019, Section V)

15.2106 MACPRA and NAGPRA DUTIES

A. The THPO shall be the Tribe's representative to Inter-tribal organizations.

B. The THPO shall be the designated NAGPRA representative of the Tribe.

C. The THPO may provide advice to Tribal Council on repatriation and protection of traditional cultural properties.

(Source: WOS 2019-006, June 12, 2019, Section VI)

15.2107 STAFFING

Tribal Historic Preservation Office (THPO) shall continue operations with existing staff. If a Tribal Historic Preservation Office position is designated or created, this position will be filled with a Tribal Citizen.

(Source: WOS 2019-006, June 12, 2019, Section VII)

15.2108 BURIAL SITES AND TREATMENT OF HUMAN REMAINS

A. No individual shall knowingly excavate or damage a burial site, human remains or funerary objects. No individual shall intentionally cause or permit the disturbance of a burial site or established buffer zone surrounding a burial site. Further, an individual shall immediately notify the Tribal Historic Preservation Office if the person knows of or has reasonable grounds to believe that a burial site or established buffer zone is being disturbed contrary to this sub chapter.

B. Only in the extreme cases of unavoidable destruction, natural exposure or accidental discovery shall burial sites, human remains or funerary objects be approved for intentional disturbance. When disturbance is found to be necessary, or has already occurred, the Tribal Historic Preservation Office will agree to a procedure in writing by which the disturbance shall be mitigated.

C. At all times during the process of disturbing any human remains, the Tribal Historic Preservation Office or his or her designee shall be on hand to assist and ensure that the parties employed to remove or expose any human remains or grave goods implement the written procedure as previously agreed upon.

D. No Scientific Analysis or Reburial will occur unless agreed upon by the Tribal Historic Preservation Office.

(Source: WOS 2019-006, June 12, 2019, Section VIII)

15.2109 PERMITS TO PROCEED WITH AN UNDERTAKING ON LAND WITHIN THE RESERVATION

A. The Tribal Historic Preservation Office is responsible for the issuance of "Permits to Proceed with an Undertaking on Lands within the Reservation" as delineated within this Statute.

B. Prior to beginning any undertaking on land within the Reservation, all individuals shall

have a signed Permit to Proceed from the Tribal Historic Preservation Office.

C. Procedures for Obtaining a Permit to Proceed.

1. Submission of Application for Permit to Proceed. During the planning stage of all undertakings on land within the Reservation, all individuals shall complete and submit an application for a Permit to Proceed. Permits to Proceed can only be issued by the THPO. The THPO shall review the application, and determine, following a review of the THPO files covering that area, if a field investigation will be required. The THPO shall notify the applicant in writing within thirty (30) days if a field investigation is required. If no field investigation is required, the THPO shall either issue the Permit to Proceed or notify the applicant in writing of the reason for Permit denial.

2. Field Investigation. All areas within the Reservation boundaries that will undergo earth disturbing activities, not specifically excluded, and not previously subjected to a field investigation, shall be subject to a review process to determine the presence or absence of historic properties, burial sites, sacred sites or traditional cultural properties. The review consists of the following:

a. File Search and Pre-Field Investigation. THPO staff will check files and maps recording the locations of identified historic properties, burial sites, sacred site and traditional cultural properties, as well as the locations of areas previously investigated. Additional information may be sought from Tribal Elders and other individuals if deemed necessary in areas identified as highly sensitive.

b. Field Archeology Investigation. The project area presented in the Permit application, if applicable, may be investigated by a qualified archaeologist to record and describe any historic properties.

3. Permit Contingencies. Based upon the results of the investigations, the THPO will determine whether or not a Permit to Proceed will be granted and shall make a recommendation to Tribal Council via the Land and Reservation Committee. Within twenty-one (21) days of the completion of the investigations and with Tribal Council

approval, the THPO shall issue one of the following:

- a.** A Permit to Proceed with no contingencies.
- b.** A Permit to Proceed with contingencies.
- c.** A letter denying the Permit to Proceed stating that the project may not proceed according to the plans presented by the applicant. The applicant may submit a new application based upon changes made in consultation with the THPO, which would remove or minimize any impacts to historic properties.

C. Appeal of Denied Permits to Proceed. An applicant may appeal any denied Permits by requesting a hearing before Tribal Council. The request must be made in writing within fourteen (14) days of the Permit denial. A determination from Tribal Council shall be final.

D. Lands within the Reservation, Excluded from Pre-Field and Field Archeology Investigations. The THPO may permit the following areas to be excluded from field archeology investigations:

- 1.** Activities that are excluded from pre-field and field investigations:
 - a.** Gardening, in general, in pre-existing gardens, or new garden construction;
 - b.** Projects less than one (1) square meter in size (i.e.) digging postholes, planting trees, bushes, etc.);
 - c.** Maintenance activities including but not limited to: basic road maintenance, grading, snowplowing;
 - d.** Any areas that have previously undergone an archaeological survey and has been permitted with no contingencies;
 - e.** Projects that will not have ground disturbing affects; i.e. mowing lawn,

winter logging activity on frozen ground.

2. Activities that, at the discretion of the THPO, may be excluded from field archeology investigations, but may require a pre-field archaeological investigation:

- a. Swampy areas or areas with mucky soils;
- b. Locations directly on steep slopes which would prohibit construction of historic or prehistoric dwellings or settlements;
- c. Areas already disturbed by a depth of greater than three (3) feet; i.e. Gravel pits;
- d. Emergency situations (septic replacement, etc.);
- e. Hazardous conditions that jeopardize the safety of THPO staff or individuals.

E. Payment for Field Archaeological Surveys of Tribal Lands leased by Tribal Citizens. The Tribe shall pay for required field archaeological surveys of Tribal Citizens. All other surveys, including projects receiving funding from Federal agencies and other entities shall not be paid for by the Tribe; unless, otherwise and previously approved by Tribal Council.

(Source: WOS 2019-006, June 12, 2019, Section IX)

15.2110 PERMITS TO CONDUCT ACHAEOLOGICAL INVESTIGATIONS

A. Tribal Permit to Conduct Archaeological Investigations. All individuals intending to conduct archaeological investigations or engaging in the excavation or removal of archaeological materials from historic properties on lands within the reservation must have a "Permit to Conduct Archaeological Investigations" approved by Tribal Council via the Land and Reservation Committee, signed by the THPO and must satisfy the requirements of a qualified archaeologist.

B. Permits for Non-Tribal Citizens. Any individual intending to conduct archaeological investigations or engaging in excavation or removal of archaeological materials from historic properties on Federal, Tribal or allotted lands, that is not an enrolled Tribal Citizen, must have a valid ARPA Permit approved by Tribal Council via the Land and Reservation Committee, signed by the Area Director of the BIA-MOA as required in 25 C.F.R. 262.4. This permit is in addition to the Permit required by the Tribe.

C. Permits to Conduct Field Archeology on State Land within the Exterior Boundaries of the Reservation. Any individual wishing to conduct field archeology on State land within the exterior boundaries of the Reservation shall in addition to the requirements under this Statute, contact the Office of the State Archaeologist of Michigan to determine the need and process of applying for a State permit or license to conduct field archeology as encouraged in State Statute 1710.19. This permit is in addition to the Permit required by the Tribe.

D. Requirements of Qualified Archaeologist. Archaeological surveys shall be conducted by an archaeologist meeting the Department of Interior's Standards for Archaeologists.

(Source: WOS 2019-006, June 12, 2019, Section X)

15.2111 ENFORCEMENT OF PENALTIES

A. Enforcement by Duly Authorized Law Enforcement Officer.

1. The duly authorized Law Enforcement Officer shall have the responsibility and authority to enforce and implement the provisions of this Statute, which includes the issuance of citations.

2. Criminal Penalties. Any person who violates, counsels, procures, solicits, or employs any other person to violate any prohibition, or fails to follow the above stated procedures, shall, upon conviction, be fined an amount not to exceed \$1,000.00 or imprisoned for a term not to exceed twelve (12) months, or both. Such person may also be subject to the civil penalties provided for in this Statute. Criminal penalties shall also apply in Tribal Court.

3. Civil Penalties. Any person violating the provisions of this chapter commits a civil infraction punishable by fine and/or exclusion from the Reservation. The infraction shall be punishable by a fine not to exceed \$1,000.00. The Tribal Court shall hear the trial of any such infraction and the prosecution shall have the burden of proving the alleged infraction by a preponderance of the evidence. Penalties cannot be suspended or waived.

4. Civil Damages. Any person violating the provisions of this chapter shall be liable to the Tribe for civil damages to be assessed by the Tribal Court after the hearing. "Civil Damages" shall be interpreted liberally by the Tribal Court to include, but not limited to, the following:

- a.** Costs of restoration of the damaged site;
- b.** Costs associated with the enforcement of the provisions of this Chapter;
- c.** Costs associated with mitigation of protected historic properties, burial sites, sacred sites or traditional cultural properties, including reburial;
- d.** Costs associated with documentation, testing, and evaluating the damaged site in order to assess the character of the site.

5. Forfeiture of Contraband. All remains from historic properties, burial sites, sacred sites, or traditional cultural properties obtained in violation of the provisions of this Chapter shall be deemed contraband and forfeited to the Tribe after a hearing in the Tribal Court.

6. Seizure of Security. At the discretion of the duly appointed Law Enforcement Officer, the Officer shall seize such property in the possession of the defendant as the Officer deems reasonably necessary to secure payment of any fine or civil damage(s), which may be levied upon the defendant upon conviction of the infraction or crime. The Officer shall further advise the defendant of his/her right to post security.

(Source: WOS 2019-006, June 12, 2019, Section XI)

15.2112 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.

(Source: WOS 2019-006, June 12, 2019, Section XII)

15.2113 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2019-006, June 12, 2019, Section XIII)

15.2114 OTHER RELATED STATUTES

See Odawa Historic and Cultural Site Registry, as may be amended.

(Source: WOS 2019-006, June 12, 2019, Section XIV)

Chapter 22. Department of Kikaajik

15.2201 PURPOSE

This Statute is hereby enacted to establish a Department to provide services to our Tribal Citizens that are fifty-five (55) years or older.

(Source: WOS 2013-008, July 23, 2013, Section I)

15.2202 DEFINITIONS

- A.** “Cultural” means aspects of the Odawa history, spirituality, traditions, arts and crafts, values and mannerisms.
- B.** “Cultural Proficiency” means the knowledge, skills, and attitudes/beliefs that enable a person to work well with, respond effectively to, and be supportive of the Odawa Citizens.
- C.** “Department” means the Kikaajik Department.
- D.** “Kikaajik” means a Tribal Citizen who is fifty-five (55) years of age or will turn fifty-five (55) years of age by December 31st of the current year.
- E.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2013-008, July 23, 2013, Section II)

15.2203 CREATION OF THE DEPARTMENT

- A.** Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation of the Kikaajik within the Executive Branch of government.

(Source: WOS 2013-008, July 23, 2013, Section III)

15.2204 AUTHORITY AND DUTIES

A. The Department shall have the following duties:

- 1.** Promote, design and implement Odawa cultural and Tribal social activities that meet the needs of all Kikaajik.
- 2.** Strive to improve and enhance service by identifying available national, state and tribal resources to meet the needs of the Kikaajik.
- 3.** Collaborate with other LTBB departments to provide service to the Kikaajik regardless of geographical location.
- 4.** Provide services and programs that increase direct services to the Kikaajik.
- 5.** Administer Kikaajik -based programs, grants and projects.
- 6.** Constantly research different programs that would benefit each Kikaajik fairly.
- 7.** Promote services that protect all Kikaajik and other persons who are fifty-five (55) years of age or older from exploitation, abuse and neglect.

(Source: WOS 2013-008, July 23, 2013, Section IV)

15.2205 STAFFING

A. If appropriate, the Department shall begin operations with currently employed LTBB staff as designated by the Executive.

B. Only persons who possess cultural proficiency shall be eligible for hire in this Department with the exception of hiring persons that provide technical expertise outside of the Odawa culture or Anishinaabemowin.

(Source: WOS 2013-008, July 23, 2013, Section V)

15.2206 REGULATIONS REQUIRED

The Executive shall develop Regulations for this Statute in order to implement the intent of the Statute and shall forward such Regulations to the Tribal Council for approval in accordance with Administrative Procedures 2008-001, or as amended.

(Source: WOS 2013-008, July 23, 2013, Section VI)

15.2207 ADMINISTRATIVE PROCEDURES REQUIRED

Administrative Procedures shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act 2008-001, or as amended, in order to clarify the implementation of this statute by defining how the department will implement the daily activities of a statute such as applications procedures and forms for a Tribal program.

(Source: WOS 2013-008, July 23, 2013, Section VII)

15.2208 APPROPRIATIONS AUTHORIZED

The current appropriations for the Kikaajik program within the Executive budget shall be used to implement this statute along. The Executive may request additional supplemental funds necessary to meet the obligations of this Statute; and the Executive shall present Tribal Council with future annual budgets necessary to implement this statute.

(Source: WOS 2013-008, July 23, 2013, Section VIII)

15.2209 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.

(Source: WOS 2013-008, July 23, 2013, Section IX)

15.2210 EFFECTIVE DATE

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

(Source: WOS 2013-008, July 23, 2013, Section X)

Chapter 23. Elders Commission

15.2301 PURPOSE

The Commission is to advise the Kikaajik Department and aid the Department in obtaining its statutory duties of providing services to meet the needs of the Kikaajik. This statute repeals and replaces Waganakising Odawak Statute 2015-001.

(Source: WOS 2023-008, October 6, 2023, Section I)

15.2302 DEFINITIONS

- A. “Commission” means Elders Commission.
- B. “Department” means the Kikaajik Department.
- C. “Immediate Family” means husband, wife, son, daughter, step-son, step-daughter, father, step-father, father-in-law, mother, step-mother, mother-in-law, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, child, step-child, son-in-law, daughter-in-law or a person whose relationship with the Tribal Citizen is similar to that of persons who are related by blood or marriage.
- D. “Kikaajik” means a Tribal Citizen who is 55 years of age or will turn 55 years of age by December 31st of the current year.
- E. “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
- F. “Stipend” means payment for attendance at scheduled meetings or any other activities approved by the Executive in advance and shall be limited to one stipend per day.

(Source: WOS 2023-008, October 6, 2023, Section II)

15.2303 CREATION OF THE COMMISSION

- A. Elders Commission.** The Tribal Council hereby creates the Elders Commission within the Executive Branch of government. The Commission shall be composed of five (5) enrolled Tribal Citizens who must be eighteen (18) years of age or older.
- B. Immediate Family.** Two or more members of the same immediate family shall not serve on the Commission at the same time. A Commission member shall not be the Chairperson if the department director, assistant director, co-director, Tribal Chairperson or Tribal Vice-Chair is an immediate family member.
- C. Appointments.** Initial appointments to the Commission shall be staggered consisting of two 2-year terms and three 4-year terms. The terms thereafter shall be for four years with no limit on reappointment.
- D. Oath of Office.** Members will serve until their successors are appointed and sworn in under an oath of office prepared and administered by the Tribal Court within 30 days of their appointment and prior to first meeting attendance.
- E. Ethics.** Commission members shall be subject to the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government.
- F. Removal.** Members may be removed in accordance with applicable laws.
- G. Vacancy.** In the event a vacancy occurs on the Commission a Tribal Citizen who meets the eligibility requirements for the remainder of the unexpired term shall be nominated by the Executive and appointed by Tribal Council for the remainder of the unexpired term.

(Source: WOS 2023-008, October 6, 2023, Section III)

15.2304 ORGANIZATION AND DUTIES

- A.** Commission shall advise and aid the Kikaajik Department in obtaining its statutory duties of providing services to meet the needs of the Kikaajik.

- B.** The Commission shall organize itself with a Chairperson and a Secretary by majority vote of the Commission.

- C.** The Commission shall gather information and may make recommendations to the Department.

- D.** The Commission may also assist the Department in gathering information to make recommendations on alleviating common problems facing Kikaajiks and make recommendations on enhancing services.

(Source: WOS 2023-008, October 6, 2023, Section IV)

15.2305 BUDGET, COMPENSATION AND TRAVEL

The Executive shall present Tribal Council an annual budget necessary to implement this statute. Members shall be compensated, subject to the availability of funds.

- A. Stipends.** The Tribal Chair may authorize the payment of a stipend to members of the Commission in appreciation for their governmental service. Any such stipend shall be reasonably related to the demands of the Commission and subject to the availability of appropriations. Draft minutes shall be submitted to the Executive prior to stipend processing for the same meeting.

- B. Travel day stipends.** The Executive may approve daily travel stipends for attendance at an event, training, or other approved activity. Any such stipend shall be reasonably related to the travel demands of the event and subject to the availability of appropriations.

- C. Travel expenses.** Travel expenses for Executive-approved travel shall be reimbursed at the same rate as allowed employees in the Tribal Governmental Employees Travel Reimbursement Policy.

(Source: WOS 2023-008, October 6, 2023, Section V)

15.2306 MEETINGS AND MINUTES

A. Meetings. The Commission shall meet no more than once per month unless otherwise directed by the Executive. Notice of meetings shall be posted at least five days in advance in the Tribal Governmental building and on the Tribal website. At a minimum, meetings shall be open to Tribal Citizens.

B. Minutes. The minutes shall reflect what was done, not what was said, at the meeting.

1. No member shall participate in making any decision that involves a personal or financial interest of the member or a member of his or her immediate family unless such interest is held in common with the Tribe and its Citizens.

2. Actions of the Commission shall be decided by a majority vote of those present at the meeting. The Chair is entitled to vote on all matters brought before the Commission. A quorum shall consist of three members.

3. The minutes of the meeting shall include, but not be limited to, the date and time the meeting occurred, the call to order, motions or proposed motions, seconds, and name of public commenters.

4. The Commission shall allow a reasonable amount of time for at least one public comment period per meeting but may limit such time for comments as necessary to conduct business.

5. Once approved, the minutes will be the official record of the Commission meetings.

6. The Secretary, or his/her designee, will be responsible for taking the minutes.

a. The Commission may utilize Kikaajik Department staff as assigned by the Executive.

b. The Secretary shall keep a copy of the minutes.

(Source: WOS 2023-008, October 6, 2023, Section VI)

15.2307 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.

(Source: WOS 2023-008, October 6, 2023, Section VII)

15.2308 EFFECTIVE DATE

This statute shall be effective upon the signature of the Executive, or 30 days from Tribal Council approval, or if the Executive vetoes the legislation, then upon the date on which Tribal Council overrides the veto.

(Source: WOS 2023-008, October 6, 2023, Section VIII)

Chapter 24. Tribal Government Human Resources Department

15.2401 PURPOSE

The purpose of this Statute is hereby enacted to establish the Human Resources Department within the Little Traverse Bay Bands of Odawa Indians government that is responsible for providing equal and fair employment practices directly to Office of the Prosecutor, Election Board, Executive, Legislative, and Judicial Branches of government personnel.

(Source: WOS 2015-007, April 8, 2015, Section 1)

15.2402 DEFINITIONS

- A. **“Cultural”** means cultural aspects of the Odawa history, spirituality, traditions, arts and crafts, values and mannerisms.
- B. **“Department”** means Human Resources Department.
- C. **“Director”** means the position responsible for direction and oversight of benefits, Human Resources Information System (HRIS), data analytics and communication in support of strategic initiatives and tactical operational goals.
- D. **“LTBB or Tribe”** means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2015-007, April 8, 2015, Section II)

15.2403 CREATION OF THE DEPARTMENT

- A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members.”

B. The Tribal Council hereby approves the creation of the Human Resources Department within the Executive Branch of government.

(Source: WOS 2015-007, April 8, 2015, Section III)

15.2404 APPROPRIATIONS AUTHORIZED

A. The Executive shall present Tribal Council with a budget necessary to implement this statute.

B. The Department Director shall prepare and provide an annual budget for submission, and any supplemental funding requests in accordance with the *LTBB Budget Formulation Process*.

1. The Director shall be responsible for operating within the annually appropriated budget for the Department.

(Source: WOS 2015-007, April 8, 2015, Section IV)

15.2405 INTERNAL ORGANIZATION

B. The Department shall begin operations with currently employed LTBB staff as designated by the Executive.

C. The Department shall consist of a Department Director and other personnel as necessary for the execution of its mission, performance of its mandated functions, and to achieve its annual goals and objectives.

D. The Department Director shall be paid compensation commensurate with his or her skills, education, experience, responsibilities and within the standards of compensation established by LTBB.

E. The Director shall be responsible for the development and implementation of the mandates within this Statute.

(Source: WOS 2015-007, April 8, 2015, Section V)

15.2406 DUTIES

A. The Director shall ensure the development of a Policies and Procedures Manual that is clear and easily understood. The Manual shall provide a standard method for employer-employee relationships; setting expectations to limit employer liability, and create consistent decision making in the workplace for the tribal government. The Manual shall also contain:

1. All provisions of employment; and
2. Standard administrative forms.

B. The Director shall ensure that assistance to all governmental branches, Prosecutor's Office and Election Board is provided in the hiring, performance management, disciplinary action, and termination of employees' processes.

C. The Director shall ensure employees' skills and training needs are assessed in order to coordinate government-wide Professional Development Trainings that include Odawa Culture for employees.

D. The Director and staff may work with the Education Department to survey Tribal Citizens to determine education, experience and skills for outreach and to promote employment opportunities and.

E. The Department shall assistance in the development of career plans for employees.

F. The Director shall ensure the development and establishment of a database of Tribal Citizen Candidate applications and resumes for future employment opportunities.

G. The Department shall create a mentoring program for succession planning.

(Source: WOS 2015-007, April 8, 2015, Section VI)

15.2407 QUARTERLY REPORTS

The Director shall provide a written quarterly report to the Executive that shall contain the number of employees, employee turn-over rate including voluntary and involuntary terminations, number of Tribal Citizens, number of other Natives and non-Natives employed; number of Tribal Citizens, Other Natives and non-Natives employed in exempt and non-exempt positions, number of grievances and outcomes, and any other relevant information. The report shall be forwarded to Tribal Council in an Executive Oversight Quarterly Report.

(Source: WOS 2015-007, April 8, 2015, Section VII)

15.2408 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.

(Source: WOS 2015-007, April 8, 2015, Section VIII)

15.2409 EFFECTIVE DATE

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

(Source: WOS 2015-007, April 8, 2015, Section IX)

Chapter 25. Environmental Appeals Board

15.2501 PURPOSE

This purpose of this Statute is to create a Board of Appeals on environmental permits administered by the Natural Resources Department's Environmental Services Program.

(Source: WOS 2018-004, March 23, 2018, Section I)

15.2502 DEFINITIONS

A. "Applicant" or "Permittee" means any person or entity applying for a permit to conduct activity on or alter natural resources regulated by the Environmental Services Program, including but not limited to individuals, sole proprietorships, partnerships, corporations, associations, governments, and governmental agencies.

B. "Board" or "EAB" means the Environmental Appeals Board.

C. "Program" means the LTBB Environmental Services Program, within the Natural Resources Department.

D. "Traditional Ecological Knowledge" or "TEK" means evolving knowledge acquired by indigenous people through direct contact with the environment.

(Source: WOS 2018-004, March 23, 2018, Section II)

15.2503 CREATION OF THE BOARD

A. The Tribal Council hereby creates the Environmental Appeals Board, composed of three (3) Tribal Citizens at least eighteen (18) years of age, nominated by the Executive Branch and appointed by Tribal Council.

B. Initial appointments terms of the Board shall be staggered; one (1) two-year term, one (1) three-year term, and one (1) four-year term. The terms thereafter shall be for four (4) years with no limit on reappointment.

C. Appointees should have either demonstrable scientific experience in the environmental field or Traditional Ecological Knowledge, or both.

(Source: WOS 2018-004, March 23, 2018, Section III)

15.2504 DUTIES AND AUTHORITY OF THE BOARD

A. The Board shall have the following duties and authority:

- 1.** Develop policy and procedures for holding appeal hearings.
- 2.** Hold appeal hearings and provide an opportunity for the parties to appear before the Board.
- 3.** Post the appeal process, forms and deadlines on the LTBB website.
- 4.** Allow for the applicant, permittee or any interested person to appeal the Program's permit decision within thirty (30) days of issuance of the Program's decision.
- 5.** Hear all appeals as set out in statutes and regulations administered by the Program.
- 6.** Allow for the entire decision or any portion of a Program's decision to be appealed.
- 7.** Affirm, modify, or reverse the decision of the Program based on evidence presented to the board at a hearing.

8. All decisions shall be in writing and posted on the tribal website within 30 days of the hearing.

9. All decisions will be effective sixty (60) calendar days after the issuance of the decision.

(Source: WOS 2018-004, March 23, 2018, Section VI)

15.2505 MEETINGS

Regularly scheduled meetings shall be held to conduct business and hearings of the Board as deemed necessary.

(Source: WOS 2018-004, March 23, 2018, Section V)

15.2506 TRIBAL COURT REVIEW

A. Following a final decision of the Environmental Appeals Board, after a hearing under this Section, any party who disagrees with the final decision, has a right to file an appeal with the Tribal Court. The burden of proof in the appeals process is on the appellant.

B. Appeals shall be in accordance with Tribal Court Rules.

C. The Tribal Court shall give deference to the EAB interpretations of the regulations and statutes unless such interpretations are unreasonable. Unreasonable means that the decision is arbitrary, capricious, or manifestly contrary to the statute or regulation. The Court shall only overrule the decision of the Environmental Appeals Board if the evidence cannot reasonably be construed to support the action of the Environmental Appeals Board. The Tribal Court will not consider additional or supplemental documentation or evidence not presented to the Environmental Appeals Board.

(Source: WOS 2018-004, March 23, 2018, Section VI)

15.2507 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.

(Source: WOS 2018-004, March 23, 2018, Section VII)

15.2508 EFFECTIVE DATE

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

(Source: WOS 2018-004, March 23, 2018, Section VIII)

15.2509 OTHER RELATED STATUTES

See WOS 2016-008 Nibiish Naagdownen “Care of the Water”: Clean Water Act, WOS 2008-012 Natural Resources Protection, and WOS 2003-001 Solid Waste Disposal.

(Source: WOS 2018-004, March 23, 2018, Section IX)

Chapter 26. Burial Program

15.2601 PURPOSE

That the Little Traverse Bay Bands of Odawa Indians (LTBB) shall have a Burial Program for Tribal Citizens to provide financial assistance toward funeral, cremation, and burial expenses following the death of a Tribal Citizen and repeals and replaces WOS 2006-017 and any and all previous amendments.

(Source: WOS 2008-003, February 28, 2008, Section I)

15.2602 ELIGIBILITY

A family member, legal guardian, or other person who has taken on the responsibility of paying for the funeral and burial cost of a deceased Tribal Citizen, may request Burial Program financial assistance. To be eligible, the deceased must be a Citizen with LTBB at time of death, or less than one year of age and eligible for citizenship with Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2008-003, February 28, 2008, Section II)

15.2603 IMPLEMENTATION

A. LTBB shall maintain a separate Burial Program Account administered by the Executive Branch. Funds for the Burial Program will be appropriated annually in the budget process.

B. Burial funds are only provided through direct payment, or reimbursement with receipts, as a result of funeral and burial costs. Therefore, this assistance is only available with proof of death and submission of receipts. The receipts will be paid in the order received or according to the preferences indicated by the person handling the affairs of the deceased.

(Source: WOS-2021-01 for Section 15.2601, Subsection A and B, February 22, 2021, Section III)

C. No direct payment or reimbursement shall be made prior to the death of a Tribal Citizen.

(Source: WOS 2008-003, February 28, 2008, Section III)

15.2604 IMPLEMENTING REGULATIONS

The Executive Branch of Government shall adopt regulations to implement this Statute. Any previous regulations in place at the time of the enactment of this Statute shall remain in effect to the extent that they are consistent with this Statute, and until such further Regulations are approved by Tribal Council. The Executive Branch of Government shall adopt regulations to implement this Statute. Any previous regulations in place at the time of the enactment of this Statute shall remain in effect to the extent that they are consistent with this Statute, and until such further Regulations are approved by Tribal Council.

(Source: WOS 2008-003, February 28, 2008, Section IV)

15.2605 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 LTBB, 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.

(Source: WOS 2008-003, February 28, 2008, Section V)

15.2606 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first, or, if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS-2021-01, February 22, 2021, Section VI)

Chapter 27. Health, Food and Housing Program Statute

15.2701 PURPOSE

The purpose of this Statute is to layout the guidelines for the Little Traverse Bay Bands (LTBB) of Odawa Indians Department of Human Services to distribute allocated funds for allowance of health, food and housing to Tribal Citizens who participate in the Health, Food and Housing Program. Hereinafter the Health, Food and Housing Program will be referred to as "HFH". HFH will be in accordance with the "IRS Tribal General Welfare Guidance" and the "General Welfare Statute."

(Source: WOS 2021-008, July, 7, 2021, Section I)

15.2702 GENERAL WELFARE EXCLUSION

As stated by the requirements of the United States Internal Revenue Section 139E, Health, Food and Housing Program meets the criteria of the United States *Public Law* 113-168, Tribal General Welfare Exclusion Act of 2014 and WOS 2017-002 General Welfare Statute.

(Source: WOS 2021-008, July 7, 2021, Section II)

15.2703 DEFINITIONS

- A. **“Department”** means the Department of Human Services.
- B. **“Food”** means groceries, paper and cleaning products and other household supplies.
- C. **“Health”** means doctor office visits, co-pays, prescriptions, vitamins, dental care, vision care, hearing care, hospital costs, nursing home care, nursing care, and other medical or health related expenditures.
- D. **“Program”** means Health, Food and Housing program will be referred to as "HFH" located within the Executive Branch of the Tribe.

E. “**Housing**” means temporary or permanent housing related expenses including rent, mortgage, land contract, property taxes, home improvement, and home repairs.

F. “**Tribal Citizen**” or “**LTBB Citizen**” means a person enrolled with the Little Traverse Bay Bands of Odawa Indians on or before January 1st of the calendar year.

G. “**Tribe**” or “**LTBB**” mean the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2021-008, July 7, 2021, Section III)

15.2704 APPLICATION

A. The program shall be administered by the Department of Human Services within the Executive Branch.

B. Program funds shall be paid directly to the LTBB Citizen or a Parent/Guardian of a minor dependent LTBB Citizen that applies.

C. Application shall be made available upon request from a LTBB Citizen or a Parent/Guardian of a minor dependent LTBB Citizen that applies.

D. The Department will publish the application, no later than the June issue, in the Odawa Newsletter of the current calendar year. An updated version of the program's application will be posted on the LTBB website by the Department of Human Services, no later than June 1st of the current calendar year.

E. Applications shall be deemed completed if they contain the following information:

- 1.** Name and contact information;
- 2.** Enrollment number;

3. Dated signature of the LTBB Citizen or a Parent/Guardian of a minor dependent LTBB Citizen that applies applying for the program certifying that the funds will be used toward health, food or housing expenditures.
Applications shall become available no later than June 1st of the current calendar year accepted through December 15th of the current calendar year.

F. Completed applications and electronic signatures shall be accepted by email or other forms of electronic transmission.

G. Funding shall only apply to the current fiscal year. Applications shall not be accepted for past or future fiscal years.

(Source: WOS 2021-008, July 7, 2021, Section IV)

15.2705 FUNDS

A. Funding for the HFH Program is allocated from the Tribal General Fund.

B. Each Fiscal Year, if funding is allocated, it shall be to a separate fund within the Executive Branch Budget and an estimate of the amount of payment that each LTBB Citizen shall receive shall be reflected in the budget.

C. At the end of the Fiscal Year, any funds remaining in the separate fund shall be returned to the general fund unrestricted balance available for appropriation in subsequent years.

(Source: WOS 2021-008, July 7, 2021, Section V)

15.2706 SUSPENSION OF PROGRAM

The HFH Program shall automatically be suspended for each fiscal year that funds are not allocated with the Executive Branch HFH Separate Fund Budget.

(Source: WOS 2021-008, July 7, 2021, Section VI)

15.2707 REGULATIONS REQUIRED

The Department shall develop regulations for this statute for Tribal Council approval; however, the implementation of the statute shall not be delayed by approval of regulations.

(Source: WOS 2021-008, July 7, 2021, Section VII)

15.2708 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.

(Source: WOS 2021-008, July 7, 2021, Section VIII)

15.2709 EFFECTIVE DATE

Effective upon signature of the Executive or thirty (30) days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2021-008, July 7, 2021, Section IX)

15.2710 OTHER RELATED STATUTES

See Waganakising Odawak Statute (WOS) 2020-006 Tribal Government Budget Formulation and Modification Process, WOS 2017-002 General Welfare, or as may be amended.

(Source: WOS 2021-008, July 7, 2021, Section X)

Chapter 28. Reserved

Chapter 29. Department of Public Works Statute

15.2901 PURPOSE

This Statute is hereby enacted to establish the Department of Public Works that shall alone or in conjunction with other Departments and entities plan, administer, and manage for the telecommunications, utility, maintenance of roads and transportation for the Little Traverse Bay Bands of Odawa Indians Tribe and Tribal Citizens.

(Source: WOS 2021-011, July 7, 2021, Section I)

15.2902 DEFINITIONS

- A. **“Department”** means Department of Public Works.
- B. **“Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians”** means *“areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.”* Little Traverse Bay Bands Constitution, Article V(A)(1)(a).
- C. **“Tribal Citizen”** means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.
- D. **“Tribe”** means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2021-011, July 7, 2021, Section II)

15.2903 CREATION OF THE DEPARTMENT

- A. Pursuant to Article VII (D) (22) of the Tribal Constitution the Tribal Council shall have the power to: “Approve the creation or dissolution of Executive divisions or departments to promote and protect the peace, health, safety, education, and general welfare, including but not

limited to cultural and natural resources, of the Little Traverse Bay Bands of Odawa Indians and its members”.

B. The Tribal Council hereby approves the creation of the Department of Public Works within the Executive Branch of government.

(Source: WOS 2021-011, July 7, 2021, Section III)

15.2904 AUTHORITY

A. The Department shall have the following authority:

- 1.** Formulate overall administrative and operating policies and procedures necessary for effective management of the department.
- 2.** Implement and enforce policies and procedures for the department's operations to ensure compliance with guidelines, rules, regulations and requirements set by the funding sources and the Tribe.
- 3.** Ensure accountability of tribal funds and resources, with guidelines, including the enforcement of and compliance with policies, rules, regulations and tribal laws.
- 4.** Seek additional funding for department development, expansion, and improvements.
- 5.** Periodically review fiscal allocations to ensure that expenditures are made according to planned departmental activities and authorized budgets.
- 6.** Procure telecommunications and utility services for the Tribe and its Tribal Citizens contingent upon the availability of funds.

7. Conduct annual audit on usage and inventory of equipment for telecommunications and utility services to ensure proper accountability.
8. Inventory roads and transportation needs.
9. Develop strategies and maintenance plans for roads and transportation.
10. Negotiate with service providers to deliver quality of service at competitive rates.
11. Ensure the timely submission of service requests and subsequent completion and resolution.
12. Ensure the timely review, analysis, and submission of invoices for payment to services providers.
13. Recommend cost saving measures to ensure the efficient use of resources.
14. Keeping abreast of emerging technologies through research and training.
15. Provide general training on telecommunication equipment usage and services.
16. Conduct public service awareness campaigns in partnership with other entities.
17. Administer Energy and Utility -based programs, grants and projects

(Source: WOS 2021-011, July 7, 2021, Section IV)

15.2905 DUTY AND AUTHORITY

A. The Department shall have the following duties:

1. To acquire, construct, operate, maintain, promote and expand utility systems furnishing electric, gas, water, sewer, cellular radio and telephone services within the

Tribe's Territorial Jurisdiction.

2. To initiate, acquire, operate, maintain, promote and provide, alone or in conjunction with others, services and facilities both within and beyond the boundaries of the Little Traverse Bay Bands of Odawa Indians Territorial Jurisdiction.

3. To provide utility service to the Tribe and its Tribal Citizens at the lowest possible cost consistent with prudent fiscal responsibility.

4. To use the revenues of the Department.

5. Apply for grant funding.

A. Ancillary. Authority to do everything necessary, proper, advisable, or convenient for the accomplishment of the purposes herein above set forth, and to do all things incidental thereto or connected therewith, which are not forbidden by law, regulation, or policy.

B. Any revenue collected by the Department shall be retained by the Department in a dedicated fund; and any unspent funds shall be carried over annually and retained by the Department to be used for the following purposes, which are listed below in the order of the priority of use:

1. To pay the costs of operations and maintenance.

2. To amortize the loans of the Department.

3. To fund an adequate Renewal and Replacement fund.

4. To educate the Tribe and its Tribal Citizens in the proper, efficient and economical use of all utilities.

5. To accelerate the retirement of long-term debt.

6. To provide a fair return to the Tribe on its investment.

D. Authority to make contracts or agreements, incur liabilities and borrow money from any source, upon such terms and rates and interests as the Department may determine; to issue notes, bonds and other obligations and secure any of its obligations by specifically mortgaging, pledging or assigning the Department’s property or income as collateral for its debts or liabilities, with prior approval of the Tribal Council.

E. The Department may negotiate for the acquisition of real property (by purchase, exchange, lease, hire or otherwise), utilize, improve, manage, operate, and to negotiate the sale, lease, or mortgage of, either alone or in conjunction with others, necessary or incidental to the purposes set forth this Statute. The Department shall obtain approval by Tribal Council prior to the finalization of any acquisition or encumbrance of real property.

F. In accordance with the Tribal Constitution, before any real property may be sold, convey, or otherwise dispose of all or any part, must be approved by a majority vote by referendum of the LTBB Tribal Citizens, or by a quorum of LTBB Tribal Citizens at an annual membership meeting.

(Source: WOS 2021-011, July 7, 2021, Section V)

15.2906 STAFFING

A. The Department of Public Works shall be administered by a Director. The Director shall supervise all administrative personnel within the Department.

B. The Director has the authority to hire personnel to carry out the organizational duties and responsibilities contingent upon availability of funds.

(Source: WOS 2021-011, July 7, 2021, Section VI)

15.2907 REGULATIONS REQUIRED

Regulations shall be developed by the Executive Branch and presented to Tribal Council for approval in accordance with the Administrative Procedures Act.

(Source: WOS 2021-011, July 7, 2021, Section VII)

15.2908 APPROPRIATIONS AUTHORIZED

The Department of Public Works shall be included in the Executive budget and funded annually. The Executive may request additional supplemental funds necessary to meet the obligations of this Statute; and the Executive shall present Tribal Council with future annual budgets necessary to implement this statute.

(Source: WOS 2021-011, July 7, 2021, Section VIII)

15.2909 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.

(Source: WOS 2021-011, July 7, 2021, Section IX)

15.2910 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.

(Source: WOS 2021-011, July 7, 2021, Section X)

Chapter 30. Authorization of the Marijuana Program Statute

15.3001 PURPOSE

The purpose of this Statute is to authorize the regulating of marijuana, and authorize the Department of Commerce to license, regulate, inspect and have enforcement regulatory power for the Marijuana Program.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section I)

15.3001 DEFINITIONS

- A.** “**Applicant**” means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the Marijuana Program.
- B.** “**Cannabis**” means a genus of flowering plants in the family Cannabaceae of which *Cannabis sativa* is a species, and *Cannabis indica* and *Cannabis ruderalis* are subspecies thereof. Cannabis refers to any form of the plant in which the delta-9 tetrahydrocannabinol concentration on a dry weight basis has not yet been determined.
- C.** “**Criminal History Report**” means the Federal Bureau of Investigation’s Identity History Summary, state criminal history, or other criminal history access tool.
- D.** “**Department**” means the Department of Commerce.
- E.** “**Designated consumption establishment**” means a commercial space that is licensed by the Department and authorized to permit adults, 21-years of age and older, to consume marijuana products at the location indicated on the license issued under these regulations.
- F.** “**Eligible property**” means commercial or agricultural property wholly owned by the Tribe, majority owned by the Tribe, or located on land held in trust by the Secretary of Interior.
- G.** “**Entity**” means a person, corporation, joint stock company, association, limited

partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

H. “Executive” means the Executive Branch of government under Article VIII of the LTBB Constitution the power of which is vested in the Tribal Chairperson and the Vice-Chairperson.

I. “Grower” means an entity authorized to grow, harvest, handle, and store Marijuana plant parts prior to the delivery of such plants or plant parts for further processing, at one (1) or more specified locations. This also includes the disposal of cannabis plants that are not Marijuana for purposes of chemical analysis and disposal of such plants.

J. “Licenses” means any of the following held by a person: (1) marijuana grower license, (2) marijuana processor license, (3) marijuana retailer license, (4) marijuana secure transporter license, (5) marijuana safety compliance facility license, or (6) designated marijuana consumption establishment, or (7) temporary event license.

K. “Location” or “Land” means the particular land, building or buildings where Marijuana will be grown, handled, stored, or processed, which can include a field name or building name.

L. “Marijuana” or “marihuana” means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

M. “Producer” means a an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop for market, or cultivation for market and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. A Producer includes a grower of marijuana seed.

N. “Program” means the Marijuana Program.

O. “Retail Establishment” means an entity that provides for retail sale of marijuana.

P. “**Temporary Event**” means an event where the onsite sale or consumption of marihuana products, or both, are authorized at the location indicated on the license.

Q. “**Territory of the Tribe**” has the same meaning as “Indian Country” in 18 U.S.C. 1151.

R. “**Tribe**” or “**LTBB**” means the Little Traverse Bay Bands of Odawa Indians which was reaffirmed in Public Law 103-324 is recognized as eligible by the Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as a federally recognized tribe, and are recognized as possessing powers of self-government.

S. “**Tribal Citizen**” means a person who is enrolled with the Little Traverse Bay Bands of Odawa Indians Tribe.

T. “**Tribal Council**” means the Legislative body of the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section II)

15.3003 MARIJUANA PROGRAM AUTHORIZED

This Statute authorizes the Marijuana Program for marijuana grower licenses, marijuana processor licenses, marijuana retailer licenses, marijuana secure transporter licenses, marijuana safety compliance facility licenses, designated marijuana consumption establishment licenses, temporary event licenses within eligible properties located within the Territory of the Tribe and the authorizes the Department of Commerce to license, regulate, inspect and have enforcement regulatory power for the Marijuana Program.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section III)

15.3004 DEPARTMENT OF COMMERCE DUTIES AND AUTHORITY

A. The purpose of the Department is to ensure compliance with Tribal laws and regulations.

The Department will serve as the licensing authority for the Marijuana Program within the Territory of the Tribe. The Department shall have authority to take all actions authorized by this Statute.

B. In order to carry out its regulatory duties, the Department shall have unrestricted access to all areas of a marijuana operation and to all records. The Department shall have authority to take enforcement actions as authorized by this Statute.

C. The Department shall:

1. Approve the permitting of a “Location” or “Land”;
2. Ensure that criminal history checks are conducted in accordance with this Statute;
3. Make suitability determinations, and sign an approved license;
4. Issue marijuana grower licenses, marijuana processor licenses, marijuana retailer licenses, marijuana secure transporter licenses, marijuana safety compliance facility licenses, designated marijuana consumption establishment, temporary event licenses, consistent with the suitability determination;
5. Inspect, examine and monitor all license holders, and have immediate access to review, inspect, examine, photocopy and audit all marijuana related records of any marijuana producer;
6. Ensure compliance with all Tribal laws, and regulations regarding marijuana;
7. Levying of fees associated with marijuana license applications;
8. Promulgate and issue regulations on suspension or revocation of marijuana licenses for violations of this Statute, or any related Marijuana Program Regulations;

9. Perform such other duties for the proper licensing and regulating of the Marijuana Program;
10. The Department shall ensure that all records and information obtained as a result of a background investigation or criminal history check shall remain confidential and shall not be disclosed to persons who are not directly involved in the licensing process;
11. Establish a process and specify the information to be included in an Marijuana Program application that allows an owner of eligible property to become a qualified applicant;
12. To review and approve applications for the Program;
13. To enter into contracts and agreements needed for its functions or operations;
14. To contract for professional services;
15. Retain a collection fee for each assessment and other allowable fees that it collects as part of the Program.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section IV)

15.3005 APPLICATION

- A. The Marijuana Program shall be administered by the Department of Commerce within the Executive Branch.
- B. Completed applications and electronic signatures shall be accepted by email or other forms of electronic transmission.
- C. The Department shall deny any License Application that fails to meet the deadline established in the application, or does not meet the requirements set forth by law or regulation.

- D.** Each Applicant shall pay an application fee in the amount established by the Department and approved by Tribal Council.
- E.** Any License Application that is missing required information shall be subject to denial.
- F.** Criminal History Reports. Each applicant, and if the applicant is an entity, persons with a financial interest in the applicant, and all key participants of the applicant/producer shall submit a criminal history report with the application or provide the necessary information for the Department to conduct a criminal history report.
- G.** The Department shall review the criminal history report to determine eligibility.
- H.** The application may require any or all of the following:
- 1.** Business plan;
 - 2.** Operations plan;
 - 3.** Site plan;
 - 4.** Facility description;
 - 5.** Anticipated or actual number of employees;
 - 6.** Name of the proposed manager of the facility;
 - 7.** Security plan including security systems(s), lighting plan, outside lighting, and alarmed and monitored security systems;
 - 8.** A list of pesticides, and other chemicals proposed for use;
 - 9.** Environmental safeguards;

10. Previous business or farming experience; and/or

11. Product sources such for retail or growing.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section V)

15.3006 DEPARTMENT FUNDING

The Department may collect a fee for each Program application submission and issuance of a license.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section VI)

15.3007 LICENSES

A. The Department has the authority to issue grower licenses, marijuana processor licenses, marijuana retailer licenses, marijuana secure transporter licenses, marijuana safety compliance facility licenses, designated marijuana consumption establishment, temporary event licenses.

B. The Department has the authority to deny, suspension or revoke a license.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section VII)

15.3008 ELIGIBILITY

In order for an applicant to be eligible, they must be a Tribal Citizen, a Tribal entity or the entity must be owned by the Tribal Citizen by at least fifty-one (51) percent.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section VIII)

15.3009 APPEALS

A. Any person who would like to challenge a fine, denial of a license, suspension or

revocation of a license must request a hearing before the Department, prior to an appeal being filed in Tribal Court. The Department Hearing shall be open to the public and occur at a time and date and location designated by the Department.

B. The Court shall uphold the decision of the Department unless the Court determines that the Department’s decision is clearly arbitrary, capricious, or otherwise not in accordance with applicable laws or regulations.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section IX)

15.3010 REGULATIONS

The Department shall develop Regulations for this statute for Tribal Council approval; however, the implementation of the statute shall not be delayed by approval of Regulations.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section X)

15.3011 SAVINGS 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 or Statutes of the Little Traverse Bay Bands of Odawa Indians or federal law, 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 this Statute remain in full and binding force and effect.

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section XI)

15.3012 EFFECTIVE DATE

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

(Source: WOS 2021-013, deemed enacted July, 26, 2021, Section XII)

Chapter 31. Energy Improvement Program Statute

15.3101 PURPOSE

The purpose of this Statute is to layout the requirements for the Little Traverse Bay Bands (LTBB) of Odawa Indians Department of Commerce to administer the Energy Improvement Program for eligible property. The Energy Improvement Program, that includes energy efficiency and renewable energy, will enhance the value of the property and improve the environment of the community through conservation of energy.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section I)

18.3102 DEFINITIONS

- A.** "Assessment" means a charge levied by the Tribe against eligible property benefited by energy improvement under the Energy Improvement Program.
- B.** "American Society of Heating, Refrigerating and Air-Conditioning Engineers" or "ASHRAE" means the American professional association seeking to advance heating, ventilation, air conditioning and refrigeration (HVAC&R) systems design and construction.
- C.** "Commercial property" means any property other than a residential building containing four (4) or fewer dwelling units that is used for manufacturing, hospitality, medical, industrial or government, and other businesses that are not for the intended purpose of human habitation, including the following: office buildings, medical centers, hotels, malls, retail/restaurant stores, retail buildings, multifamily housing buildings larger than a fourplex, gas stations/garages, warehouses, self-storage developments, and multi-use buildings.
- D.** "Department" means the Department of Commerce.
- E.** "Eligible property" means commercial property wholly owned by the Tribe, majority owned by the Tribe or located on land held in trust by the Secretary of Interior.

F. "Energy efficiency improvement" means one or more installations or modifications to eligible property that are designed to reduce the energy consumption of the property and includes, but is not limited to, the following:

1. Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;
2. Storm windows and doors, multi-glazed windows and doors, heat-absorbing or heat-reflective glazed and coated window and door systems, with additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
3. Automatic energy control systems;
4. Heating, ventilating, or air conditioning and distribution system modifications or replacements in a building;
5. Caulking and weather-stripping;
6. Replacement or modification of lighting fixtures to increase the energy efficiency of the system;
7. Energy recovery systems;
8. Daylighting systems;
9. Electric vehicle charging equipment added to the building or its associated parking area;
10. Any other modification, installation, or remodeling approved by the Department as a utility cost-savings measure, including water conservation fixtures, including both indoor and outdoor fixtures and for both hot and cold water.

G. "Energy improvement" means one or more on-site energy efficiency improvements or renewable energy improvements, or both, made to eligible property that will reduce the energy consumption of or add energy produced from renewable energy sources with regard to any portion of the eligible property.

H. "Executive" means the Executive Branch of government under Article VIII of the Constitution the power of which is vested in the Tribal Chairperson and the Vice- Chairperson.

I. "Loan balance" means the outstanding principal balance of loans secured by a mortgage or deed of trust with a first or second lien on eligible property.

J. "Program" means the Energy Improvement Program established by the Tribe.

K. "Qualified applicant" means a person who timely has submitted an application to the Department of Commerce and meets the requirements established by the Department.

L. "Renewable energy improvement" means one or more fixtures, products, systems, or devices, or an interacting group of fixtures, products, systems, or devices, that directly benefit eligible property or that are installed behind the meter of any eligible property and that produce energy from renewable resources, including but not limited to photovoltaic, solar thermal, wind, low-impact hydroelectric, biomass, fuel cell, or geothermal systems, such as ground source heat pumps.

M. "Tribe" or "LTBB" mean the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section II)

15.3103 PROGRAM

The purpose of the program is to promote the benefits of energy improvements that includes energy efficiency improvement and/or renewal energy improvement to owners of eligible property who voluntarily join the Program. The Department of Commerce shall establish, develop, and administer the new energy improvements program that will enhance the value of

the property and improve the environment of the community through conservation of energy.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section III)

15.3104 DEPARTMENT OF COMMERCE DUTIES AND AUTHORITY

A. The Tribal Department of Commerce is hereby established and shall oversee implementation of the Energy Improvement Program for eligible property.

B. The Department may exercise any of the powers granted to the Department through this Statute, including the following:

1. Establish a process and specify the information to be included in an Energy Improvement Program application that allows an owner of eligible property to become a qualified applicant by submitting an application to the Department and that may include one or more deadlines for the filing of an application.
2. To review and approve applications for the Program.
3. To levy and issue assessments.
4. To enter into contracts and agreements needed for its functions or operations.
5. To acquire, dispose of, and encumber eligible property within the Program.
6. To contract for professional services.
7. To establish assessment units, by the power to determine the method of calculating assessments, or the power to issue assessment.
8. To accept gifts and donations and apply for and accept grants; and establish, develop, and administer finances for the Program.

9. Retain a collection fee for each assessment and other allowable fees that it collects as part of the Program.

10. Market the Program to owners of eligible property, encourage such owners to obtain the benefits of completing energy efficiency or renewable energy improvements to their property and accept and process Program applications from any such owners who are qualified applicants.

11. To establish an escrow account for the deposit of any payments for transmittal to private third-party financing.

C. The Department shall prepare an assessment roll showing each unit of eligible property assessed, the total monetary amount of assessment, the amount of each installment of principal and interest if the assessment is payable in installments, and the date when each installment will become due. The Department shall deliver the assessment roll, to Tribal Council no later than December 31st of each year.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section IV)

15.3105 APPLICATION

A. The Program shall be administered by the Department of Commerce within the Executive Branch.

B. The Department will publish the Energy Improvement Program application on the LTBB website.

C. Applications shall be deemed completed if they contain the following information:

1. A postal address or electronic mail address of the eligible property owner(s), the name and postal or electronic mailing address of any person holding a lien against the eligible property, and any information that the Department requires to verify that the owner will complete an energy efficiency improvement or renewable energy

improvement, verification of the cost of completing, and an estimate the value of the benefit provided by the completed energy efficiency improvement or renewable energy improvement(s) to the applicant's eligible property.

2. Documentation that establishes credit-worthiness for qualification of Program applicants in accordance with such standards, guidelines, and procedures established by the Department, including but not limited to standards to ensure the financial stability of the applicant and other standards to prevent fraud and abuse.

3. Documentation of energy audit or other proof that ensures the efficient use of the energy as determined by the Department and as required by this Statute.

4. Verification that the Energy Improvement Program applicants have qualified for private third-party financing.

5. Verification that any mortgage or lien holder consents to the eligible property participating in the Program and will be a subordinate lienholder and consent to the levying of an assessment on the property.

6. Any other documentation that the Department requires, including, commercial building equity, appraisals and loan-to-value ratios.

D. Completed applications and electronic signatures shall be accepted by email or other forms of electronic transmission.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section V)

15.3106 DEPARTMENT FUNDING

A. The Department may collect a fee for each Program application submission.

B. The Department may collect a fee for each assessment that it collects as part of the Program.

C. The Department may also collect a fee for the remittance of funds to private third-party financing.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section VI)

15.3107 ENERGY IMPROVEMENT PROJECT

A. All work shall require a license under any applicable law to acquire, construct, install, or modify an energy project and shall be performed by a licensed contractor that has agreed to adhere to a set of terms and conditions through a process established by the Department or the Tribe's Planning Department.

B. The Department may require that the contractor or contractors sign a written acknowledgement issued by the Department that will not authorize final payment to the contractor or contractors until the Department has received written confirmation from the owner that the energy project was properly acquired, constructed, installed or modified and is operating as intended; provided, however, that the contractor or contractors retain all legal rights and remedies in the event there is a disagreement with the owner.

C. Eligible expenses include improvements made for Energy efficiency improvement or Renewable energy improvement, or both, including but not limited to the following:

1. Commissioning costs
2. Construction costs related to an eligible improvement
3. Energy audit costs
4. Engineering and design expenses
5. Measurement & verification costs

6. Permit fees
7. Renewable energy feasibility study costs
8. Processing fees including but not limited to appraisals, lender fees, Department fees, legal fees.

D. Ineligible expenses include the following:

1. Any combination of measures that do not result in utility cost savings;
2. Measures that are not permanently attached to the subject property or building and which can be easily removed (not including certain lighting upgrades the Department determines are unlikely to be removed);
3. Any measure that is not commercially available;
4. Health and safety improvements not directly related to or otherwise incorporated in the energy improvement; and
5. General construction costs, other than new construction projects.

E. New Construction

1. The applicant is required to provide total project construction costs by a trade component so that the Department can evaluate the Total Eligible Construction Cost (TECC). The TECC will include all hard and soft costs associated with construction and excludes the cost to purchase or lease the land itself as well as any components that are not permanently attached to the building.
2. The applicant will provide proof that the current or applicable International Energy Conservation Code is met or exceeded

F. Energy efficiency improvements will require an Energy Audit Report as defined by

ASHRAE for projects that involve multiple energy efficiency improvements, include at a minimum building description, baseline consumption and cost, and measure-level descriptions, costs, and savings projections.

G. For like-for-like replacement projects, an Energy Audit Report are not required; instead for each like-for-like improvement, the applicant shall submit proof one or more of the following:

1. Measure-level descriptions, costs, and savings projections;
2. Spreadsheets or dynamic building simulation input files and output reports; or
3. Energy Performance Improvement Calculator report, based on level of project complexity simulation (building drawings, audit forms or notes, equipment cut sheets, pictures, etc.)

H. Renewable energy projects must submit a renewable energy feasibility study.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section VII)

15.3108 ELIGIBLE PROPERTY

A. In order for a property to be eligible for the Energy Improvement Program it must be “Commercial Property” that is wholly owned by the Tribe, majority owned by the Tribe by at least fifty-one (51) percent, or held in trust by the Secretary of Interior.

B. The approval of an application for the Program by the Department constitutes the consent of the property owner to the levying of an assessment on the eligible property in an amount that:

1. Does not exceed the value of the benefit provided to the eligible property by the energy improvement or renewable energy improvement; and

2. Up to 100 percent financing for existing building retrofit projects and up to thirty (30) percent financing for new construction projects, with terms that extend up to twenty-five (25) years. The value of the property shall be determined by an appraisal conducted by a licensed appraiser.

C. The application for the Program must be made no later than three (3) years from the date of the completion of the energy efficiency improvement or renewable energy improvement evidenced by appropriately issued and closed out permits or Occupancy Permit for new construction.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section VIII)

15.3109 CREDIT REVIEW OF APPLICANT

In order for an applicant to be eligible, the following criteria shall be met:

A. There are no involuntary liens on the property, including, but not limited to, construction or mechanics liens, liens pending or judgments against the record owner, environmental proceedings, or eminent domain proceedings.

B. There are no notices of default or other evidence of property-based debt delinquency have been recorded and not cured.

C. The owner is current on all mortgage debt on the property, the record owner has not filed for bankruptcy in the last two (2) years, and the property is not an asset in a current bankruptcy proceeding.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section IX)

15.3110 DELINQUENT AND DEFAULT PAYMENTS

A. The Department shall declare the installments payment delinquent, when either of the following occur:

1. Notice is provided to the Department by a private third party that financed the energy improvement of the failure of payment of either installment or interest.
 2. The Department fails to receive the payment of either installment or interest.
- B.** The Department shall provide notice to the eligible property owner of the delinquency. If the owner's location or address is not available, the Department shall post the notice on the Tribal website.
- C.** At any time prior to default, the owner may pay the amount of the delinquent installments, with interest at the penalty rate set by the Department, and all costs of collection accrued and shall thereupon be restored to the right thereafter to pay in installments in the same manner as if default had not occurred.
- D.** Before the Department declares a default of the assessment payment, the Department shall notify Tribal Council of the pending default. Tribal Council shall have the option of taking over the installment payment with any outstanding interest, paying off the total amount of the assessment, or allowing the default to occur.
- E.** After providing notice to the property owner and Tribal Council, the Department may declare a default of the assessment payment. The Department shall issue a lien against the eligible property and any enhancements contained therein. The default lien shall include the delinquent installment amount, interest and any associated costs of collection accrued.
- F.** The lien shall be filed with the Tribal Clerk, Enrollment Office.
- G.** After the lien is filed, the Department shall advertise and sell the assessed eligible property tax lien defaulted upon for the payment of the whole of the unpaid installment of principal, interest and any associated costs of collection accrued. Advertisements and sales shall be posted to the Tribal website by the Department.

H. The assessment lien shall remain on the entire property, including property enhancements, until the entire assessment is paid.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section X)

15.3111 PRIORITY DISTRIBUTION

A. The assessment, together with all interest and penalties for default in payment and associated collection costs constitutes, from the date of the declared default and has priority over all other liens.

B. Any revenue from the sale of the eligible property shall be distributed in the following manner:

- 1.** Department expenses for securing deeds and taking proceedings for the default, sale or foreclosure.
- 2.** Private third party that financed the new energy improvements.
- 3.** Holders of a loan balance secured by a mortgage or deed of trust with a first or second lien on eligible property.
- 4.** Property owner.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section XI)

15.3112 REGULATIONS REQUIRED

The Department shall develop Regulations for this statute for Tribal Council approval; however, the implementation of the statute shall not be delayed by approval of Regulations.

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section XII)

15.3113 EFFECTIVE DATE

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

(Source: WOS 2021-014, deemed enacted August 25, 2021, Section XIII)