

WAGANAKISING ODAWA



TRIBAL CODE of LAW TITLE VI. GOVERNMENT AND ADMINISTRATION

2023.3

WAGANAKISING ODAWA TRIBAL CODE of LAW

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TITLE VI. GOVERNMENT AND ADMINISTRATION

Chapter 1. Legislative Procedures

Codification Note: This repeals and replaces WOS 2005-10 and WOS 2013-011 Amendment

6.101 PURPOSE

This Statute establishes uniform terminology and procedures for the consideration, enactment, certification, naming, numbering and filing of legislation, and authorizes the Executive power of veto. This Statute repeals and replaces Waganakising Odawak Statute 2005-10 and WOS 2013-011, or as amended.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section I)

6.102 DEFINITIONS

- A. “Business Day” means generally Monday through Friday, except for holidays, or when the office is closed for Emergency Closing.
- B. “Emergency Closing” means when the office is closed for events related to severe weather, fires, or power failures, or other safety or welfare conditions.
- C. “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.
- D. “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
- E. “Proposed Statute” means a new Statute or an amendment to an existing Statute.

F. “Sponsor” or “Sponsoring” means the Tribal Council member who is proposing the draft Statute for consideration of Tribal Council.

G. “Tribal Citizen” means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.

H. “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.

I. “Tribal Council Agenda” means agenda that is approved by Tribal Council motion at a Tribal Council meeting where a quorum is present.

J. “Tribal Website” means the LTBB governmental website, <http://www.ltbbodawa-nsn.gov>.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section II)

6.103 TERMINOLOGY

A. Statutes that are enacted by Little Traverse Bay Bands of Odawa Indians shall be titled “Waganakising Odawak Statute”.

B. Each enacted Statute will receive a unique number. The unique number shall be a seven (7) digit number. The first four (4) digits will be the year of the enactment. The last three (3) digits will specify the chronological order in which Statutes are enacted in a given year, separated by a hyphen. For example, the first Statute passed in 1996 will be Waganakising Odawak Statute 1996-001.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section III)

6.104 PROPOSED STATUTES and SPONSORS

A. A Tribal Council member, at a Regularly Scheduled Tribal Council meeting, may request a proposed Statute to be placed of the agenda for posting on the LTBB website. Such proposed Statutes may be in the form of an amendment to an existing Statute or a new Statute. All proposed Statutes shall include the name of the sponsoring Tribal Council member(s).

B. A Tribal Citizen may propose a Statute or an amendment to an existing Statute. Tribal Council will have sixty (60) days to consider whether or not to post the proposed Statute to the LTBB website.

C. After sixty (60) days, any Tribal Council member may choose to sponsor the proposed Statute. The sponsoring Tribal Council member(s) and Tribal Citizen(s) names shall be included with the posting on the LTBB website.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section IV)

6.105 POSTING OF PROPOSED STATUTES for PUBLIC COMMENT

A. All proposed Statutes shall be posted to the LTBB website for a minimum of twenty-five (25) days for public comment. Written comments will be submitted to Tribal Council for consideration prior to passage of a proposed Statute. Verbal comments will be heard at any Regularly Scheduled Tribal Council meeting, during a Public Comment period.

B. If at any time there is substantial changes to the proposed Statute, Tribal Council may repost the proposed Statute to the Tribal website. For Statutes that are reposted, Tribal Council may take action sooner than a minimal of twenty-five (25) days of posting.

C. Proposed Statutes shall automatically be removed from posting on the LTBB website, if any of the following occur:

- 1.** Not approved by Tribal Council after three-hundred and sixty-five (365) days of posting on the website.

2. Not approved by Tribal Council after being placed on a Tribal Council agenda and the motion for passages either fails or the motion fails for lack of support.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section V)

6.106 EMERGENCY STATUTES

In the event that immediate legislative action is absolutely necessary to preserve or promote the rights or resources of the Tribe or its Citizens, a Statute may be passed at the same meeting that it is introduced, or at a special meeting called for that purpose. However, such emergency Statutes shall require a unanimous vote of all Tribal Council members present at such meeting where no more than one sitting Tribal Council member is absent.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section VI)

6.107 CERTIFICATION

Proof of passage of a Tribal Statute shall be by written certification signed by both the Tribal Legislative Leader and the Tribal Secretary. The certification shall state at a minimum the date of passage, that a quorum of the Council was present, and a roll call record of the vote.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section VII)

6.108 SUBMISSION TO EXECUTIVE

A. Upon passage and certification of a Statute by the Tribal Council, the Tribal Council Secretary or designee shall send the certified original to the Executive for signature. Statutes shall be enacted into law upon approval by signature of the Executive, or if not expressly vetoed by the Executive within thirty (30) days of submission to the Executive.

B. If the Executive approves the Statute, then the Executive shall indicate such by either a dated signature or a dated stamp mark on the certified original document. If the Executive

vetoed the Statute, then Executive shall indicate such by either a dated signature or a dated stamp mark on the certified original document.

C. The Executive shall submit the certified original document with either the dated approval or dated veto to the Legislative Office by the next business day that the Tribal Offices are open.

D. If the Executive vetoes a proposed Statute, the Statute shall not become enacted law unless the Tribal Council, by an affirmative vote of seven (7) members of the Tribal Council, votes to override the veto.

E. The vote of Tribal Council to override a veto shall occur within ninety (90) days of receipt of the veto from the Executive. If Tribal Council fails to act on the veto override within this set time period, the veto shall stand.

F. The vote by Tribal Council to override the veto shall only occur if there are seven (7) Tribal Councilors present at the time of the vote.

G. Tribal Council shall only vote one time to override the veto. If the vote for the veto override fails, then the veto stands.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section VIII)

6.109 INITIATIVE AND REFERENDUM

The process for initiative and referendum is set out in Article XIV of the LTBB Constitution.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section IX)

6.110 COMPILATION

A. All enacted Statutes of the Little Traverse Bay Bands of Odawa Indians shall be listed in chronological order on the LTBB website and shall also be available in chronological order at the Legislative office.

B. One original signed copy of the enacted Statute shall be kept in the Legislative office and one original signed copy shall be kept in the Executive office.

C. A codified version of the current laws will also be available on the Tribal website.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section X)

6.111 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 2018-007, May 17, 2018, by veto override, Section XI)

6.112 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 2018-007, May 17, 2018, by veto override, Section XII)

6.113 OTHER RELATED STATUTES

See WOS 2015-019 Administrative Procedures Act, and WOS 2010-009 Public Documents Statute, or as may be amended.

(Source: WOS 2018-007, May 17, 2018, by veto override, Section XIII)

Chapter 2. Administrative Procedures Act

6.201 PURPOSE

This Administrative Procedures Statute is hereby enacted to establish a standard set of requirements for Executive Branch and Legislative Branch for Regulations; Administrative and Departmental Procedures; Executive Mandates and Directives; Legislative Directives and Resolutions and Tribal Councilor Special Tributes and Declarations. This statute shall repeal and replace the Administrative Procedures Statute WOS 2005-015, WOS 2006-28 and Amendment WOS 2011-014.

Codification Note: Including Repeal and Replace WOS 2008-001 Previous Statute

(Source: WOS 2015-019, October 12, 2015 Section I)

6.202 DEFINITIONS

- A.** “Administrative Procedures” means procedures required by a statute or regulation to clarify the implementation of a statute or regulation. These procedures shall not be a rewrite of the statute but define how an office or officer will implement the daily activities of a statute such as applications procedures and forms for a Tribal program.
- B.** “Business day” means any day of the week that Tribal Governmental Offices are open.
- C.** “Departmental Procedures” shall mean procedures not required by statute or regulation.
- D.** "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.
- E.** “Executive Directive” means a directive issued by the Tribal Chairperson that establishes basic internal rules of procedure, or guidelines for Executive departments and employees and does not impact Tribal Citizens or entities out-side of the Executive Branch.

- F.** “Legislative Directive” means a directive issued by the Tribal Council that establishes basic internal rules of procedure, or guidelines for Tribal Council or Legislative employees and does not impact Tribal Citizens or entities out-side of the Legislative Branch.
- G.** “Tribal Regulations” means regulations that implement a statute
- H.** “Tribal Code of Regulations” means the codification of the approved Tribal Regulations.
- I.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2015-019, October 12, 2015, Section II)

6.203 TRIBAL REGULATION

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

(Source: WOS 2015-019, October 12, 2015, Section III)

6.204 REQUIREMENTS OF TRIBAL REGULATIONS

- A.** The Executive may develop Regulations for such Statutes that the Executive deems necessary for the implementation of the intent of the Statute and shall forward such Regulations to the Tribal Council in accordance with this Statute. Such Statutes that mandate regulations, the

Executive shall draft and submit Regulations to the Tribal Council in accordance with this Statute.

B. Tribal Regulations shall reflect the intent of the law. Tribal Regulations shall be written in a manner that protects the best interests of the Tribal Citizens.

C. Tribal Citizens shall be provided an opportunity to comment on proposed regulations prior to approval by the Tribal Council.

D. Tribal Regulations shall clearly identify for whom they are intended to apply.

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

F. Tribal Regulations shall be forwarded to Tribal Council for approval, in accordance with the Tribal Constitution, Article VII (D) (2).

1. Tribal Regulations shall be considered approved unless disapproved by Tribal Council within thirty (30) days of submission by the Executive.

2. Disapproved Regulations shall be sent to the Executive with an explanation of why they were disapproved.

(Source: WOS 2015-019, October 12, 2015, Section IV)

6.205 ADMINISTRATIVE PROCEDURES

A. Procedures required by law or regulation shall be called Administrative Procedures.

B. The Tribal Executive shall develop Administrative Procedures to implement statutes and regulations that require procedures.

C. Administrative Procedures shall be developed within 120 days of enactment.

D. Administrative Procedures required by a statute shall be forwarded to the Tribal Council for approval.

E. The Tribal Executive shall ensure that the benefits provided Tribal Citizens are carried out even if Administrative Procedures have not been developed or approved.

(Source: WOS 2015-019, October 12, 2015, Section V)

6.206 REQUIREMENTS OF ADMINISTRATIVE PROCEDURES

A. Administrative Procedures shall reflect the intent of the statute or regulation they are intended to implement. Administrative Procedures shall be written in a manner that protects the best interests of the Tribal Citizens.

B. Administrative Procedures shall clearly identify to whom they are intended to apply in whole or in part.

C. Administrative Procedures shall be written in language that will be clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.

D. Administrative Procedures that require Tribal Council approval shall:

1. Be considered approved unless disapproved by Tribal Council within thirty (30) days of submission by the Executive.

2. Disapproved Administrative Procedures shall be sent to the Executive with an explanation of why they were disapproved.

(Source: WOS 2015-019, October 12, 2015, Section VI)

6.207 DEPARTMENTAL PROCEDURES

A. The Tribal Governmental offices, departments, and programs should develop

Departmental Procedures to implement statutes and regulations that do not have a statutory requirement for procedures and when necessary to promote efficiency in their office.

B. Departmental Procedures are required to promote a fair and standard method of implementing daily activities of Tribal Departments.

C. Departmental Procedures shall reflect the intent of the program, statute or regulation they are intended to implement. Departmental Procedures shall be written in a manner that protects the best interests of the Tribal Citizenship.

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

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

(Source: WOS 2015-019, October, 12, 2015, Section VII)

6.208 EXECUTIVE MANDATES

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

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

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

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

(Source: WOS 2015-019, October 12, 2015, Section VIII)

6.209 EXECUTIVE DIRECTIVES AUTHORIZED

The Executive is hereby authorized to use Executive Directives necessary for operation of the Executive branch. Directives do not carry the force of law and must be published on the Tribe's website in order for such Directive to be executed and carry authority.

(Source: WOS 2015-019, October 12, 2015, Section IX)

6.210 TRIBAL COUNCIL DIRECTIVES AUTHORIZED

The Tribal Council is hereby authorized to use Tribal Council Directives deemed necessary for operation of the Legislative Branch. Directive shall be approved by Tribal Council motion. Directives do not carry the force of law and must be published on the Tribe's website in order for such Directive to be executed and carry authority.

(Source: WOS 2015-019, October 12, 2015, Section X)

6.211 TRIBAL LAW

A. In accordance with the Tribal Constitution, Tribal Council passes laws. Laws shall be in the form of either a Resolution or Statute; or an amendment of the same.

B. Laws that are passed by Tribal Council shall be submitted to the Executive.

C. Laws 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.

D. Tribal Council will exercise the following Constitutional powers by passing laws:

- 1.** To exercise Tribal jurisdiction, including civil and criminal authority and the regulation of commerce.
- 2.** To exercise the jurisdiction of the Little Traverse Bay Bands of Odawa Indians over Indian Child Welfare matters and all other domestic relations matters.
- 3.** To govern the issuance of the Little Traverse Bay Bands of Odawa Indians charters of incorporation for economic or other purposes, and to regulate the activities of these corporations;
- 4.** To exclude person(s) or other parties from Tribal lands;
- 5.** To govern the encumbrance of Tribal lands or other intangible assets, and the encumbrance and disposition of non-real estate tangible assets;
- 6.** To manage any and all economic affairs and enterprises of the Little Traverse Bay Bands of Odawa Indians that will further the economic development of the Tribe or its members.
- 7.** To set the qualifications for appointees to committees, commissions, and boards.
- 8.** To appropriate funds and enact a budget formulation process.
- 9.** To levy taxes and govern the collection of taxes and license fees.
- 10.** Enact laws regarding Membership and implementation of Membership provisions.

- 11.** Enact compensations statutes for Tribal Council, Tribal Chair and Vice Chair, Judges and Appellate Judges, Election Board Members and Prosecutor and Assistant Prosecutors.
- 12.** Enact laws regarding Open Meetings.
- 13.** Enact laws for protecting the Office of the Prosecutor from inappropriate influence
- 14.** Enact a law regarding removal of elected or appointed officials not listed in the Constitution for neglect of duties or intentional wrongdoing.
- 15.** Enact a law requiring financial disclosure statements of candidates, and elected and appointed governmental officials.
- 16.** Enact a law for official Tribal position in support or opposition to an issue or matter.
- 17.** Any other duties that are required by the Constitution to be exercised through the use of laws.

E. Resolutions shall be certified by the Legislative Leader and Tribal Council Secretary that indicates that Resolution was passed at a meeting of Tribal Council where a quorum was present.

F. Resolutions that are submitted by the Executive shall take immediate effect upon approval of Tribal Council.

G. Laws that are enacted shall be codified into the Waganakising Odawa Code of Law, unless the Resolution has a limited effective date of less than one year such as Appropriations for a current fiscal year.

H. All laws, whether or not codified, shall be posted to the Tribal website.

(Source: WOS 2015-019, October 12, 2015, Section XI)

6.212 TRIBAL MOTION and CERTIFICATION

- A.** In accordance with the Tribal Constitution, Tribal Council shall transact official business by voting only at a meeting where a quorum of five Tribal Council members is present.
- B.** Tribal Council shall transact its official business through the use of voting on Motions.
- C.** Motions shall be made at a Regular, Special or Emergency Meetings, unless otherwise indicated by the Tribal Constitution.
- D.** Votes on Motions must be in person and proxy votes are not allowed unless otherwise indicated by the Constitution.
- E.** All Motions shall be reflected in the minutes indicating the person who made the motion, the person who seconded the motion and the result of the vote.
- F.** Only Motions that have a majority vote of the eligible voting Tribal Council members shall be considered the official action of the Tribal Council.
- G.** Tribal Council will exercise its official powers through the use of Motions, including but not limited to the following:
 - 1.** To approval or disapproval of policies, resolutions and regulations presented from the Executive branch.
 - 2.** To purchase, receive by gift, or otherwise acquiring of land, interests in land, personal property or other intangible assets.
 - 3.** To request for lands be placed in trust with the United States.
 - 4.** To approval of land use plans and zoning of lands.

5. To approval of leases for Tribally owned land and lands held in trust.
6. To approval of all sales, or dispositions of Tribal lands.
7. To employ or legal counsel.
8. To approval of the filing of lawsuits in the name of the Tribe as proposed by the Executive, provided; the Tribal Council may approve the filing of a lawsuit in the name of the Tribal without Executive concurrence by an affirmative vote of six (6) members of the Tribal Council.
9. To establish committees, commissions, and boards, and approve appointments as presented by the Executive.
10. To establish and maintain government offices for the Little Traverse Bay Bands of Odawa Indians.
11. To raise revenue.
12. To develop policies for receiving any grants, donations, or other funding from any person, corporation, municipality, government, or entity.
13. To establish such lower courts as may be deemed necessary upon request from the Judiciary.
14. 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.
15. To approve negotiations with any other governments, businesses or individuals.
16. To adopt rules of conduct to govern all levels of Tribal government.

17. To establish and procedures to provide access for review by any Tribal member or his/her authorized representative, who is a Tribal member, of the records of the Little Traverse Bay Bands of Odawa Indians.

H. Motions may be certified by the Legislative Leader and Tribal Council Secretary that indicates that the Motion was passed at a meeting of Tribal Council where a quorum was present.

(Source: WOS 2015-019, October, 12, 2015, Section XII)

I. If a Motion, after being placed on a Tribal Council agenda, fails to have a councilor make the motion or second the motion, then the motion fails. The minutes will reflect that the motion failed for lack of motion or lack of support.

(Source: WOS 2021-006, May 14, 2021, Section XII)

6.213 TRIBAL COUNCILOR TRIBUTES AND DECLARATIONS

A. A Special Tribute is a document that acknowledges or recognizes a person(s) or organization with gratitude, respect or admiration for an action or accomplishment. One or more Tribal Councilors may sign onto a Special Tribute as individual Councilors. A Special Tribute shall not obligate or commit the Tribal Council in any manner. Special Tributes do not require formal action by the Tribal Council.

B. A Declaration is a formal written public statement in support or opposition of an issue or matter. Declarations shall be approved by Tribal Council motion.

C. Copies of all Special Tributes and Declarations shall be submitted to the Legislative Office for record keeping purposes and shall be posted to the Tribal website.

(Source: WOS 2015-019, October 12, 2015, Section XIII)

6.214 DELEGATION OF POWERS

Tribal Council retains those powers that are not expressly delegated.

(Source: WOS 2015-019, October 12, 2015, Section XIV)

6.215 ELECTRONIC FILING

All documents may be filed electronically to an electronic address as designated by the Governmental Branch. If appropriate, hard copies of the documents may be filed with the designated office on the next available business day.

(Source: WOS 2015-019, October 12, 2015, Section XV)

6.216 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 2015-019, October 12, 2015, Section XVI)

6.217 EFFECTIVE DATE

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

(Source: WOS 2015-019, October 12, 2015, Section XVII)

Chapter 3. Tribal Government Budget Formulation and Modification Process

6.301 PURPOSE AND SHORT TITLE

The purpose of this Statute is to mandate a process and deadlines for the Tribal Government to follow in the formulation and implementation of the annual Tribal governmental budget. It may be cited as the “Budget Act.” This Statute repeals and replaces Waganakising Odawak Statute 2015-016, 2005-11, 2007-003 and 2007-004 and WOS 2008-004 Process for Appropriation of Supplemental Funding Statute.

(Source: WOS 2020-006, February 10, 2020, Section I)

6.302 DEFINITIONS

- A.** “Chief Financial Officer” or “CFO” is the Little Traverse Bay Bands of Odawa Indians tribal government Chief Financial Officer.

- B.** “Committee” means the Tribal Council standing Appropriation and Finance Committee consisting of the Treasurer and two Councilors.

- C.** “Fringe Benefits” means the non-wage expenses for the benefit of employees that includes, but is not limited to, Health, Dental and Vision Insurance, Disability Insurance, Unemployment Benefits, Worker’s Compensation Insurance and Employer-Portion of FICA Insurance.

- D.** “Fund” means a segregated, self-balancing account used to record revenues, expenditures, assets, liabilities and other financial transactions for a specific purpose, activity or objective.

- E.** “Fund type” for the purposes of this statute means funds distinguished by the monies or revenue source, i.e. Grant/Federal Contract Funds, Cost recovery, and General Fund.

- F.** “General Fund Balance” also known as “Prior Period funds” means the prior years’ unrestricted general fund dollars that were budgeted but not expended in the year they were budgeted and that are returned to the general fund unrestricted balance available for appropriation in subsequent years.
- G.** “Governmental Branches” mean the Legislative, Executive and Judiciary branches of government and for the purposes of this statute shall also include the Election Board and Prosecutor; and sub-entities including tribally chartered corporations.
- H.** “Indirect Costs” means the expenses that are incurred in joint usage of internally servicing a government program and are not directly assign or identify with a direct program or function, such as Accounting, Human Resources, and Administration.
- I.** “Indirect Cost Rate” means the formula used by United States Department of the Interior that pools all of the indirect costs on an annual basis through an allocable, approved plan.
- J.** “Maintenance or Space Costs” means the costs of all the government office building upkeep, allocated on a square foot basis. Costs include the wages and fringe of maintenance staff, cleaning and maintenance supplies and equipment, repairs made for regular upkeep, snow removal and lawn care, and utilities, including telephone and internet service.
- K.** “LTBB” or “Tribe” or “Tribal” means the Little Traverse Bay Bands of Odawa Indians.
- L.** “Tribal-wide Budget Worksheet” means the worksheet that lists governmental departments and individual programs, i.e. Emergency funds, Burial Assistance funds, that is attached to the Resolution and it becomes the approved budget for that fiscal year
- M.** “Tribal Council” means the elected body created under Article VII of the Little Traverse Bay Bands of Odawa Indians Tribal Constitution.
- N.** “Treasurer” means the Little Traverse Bay Bands of Odawa Indians Treasurer as provided for in the Constitution.

(Source: WOS 2020-006, February 10, 2020, Section II)

6.303 FISCAL YEAR

The fiscal year shall be from January 1 to December 31.

(Source: WOS 2020-006, February 10, 2020, Section III)

6.304 APPROPRIATION AND FINANCE COMMITTEE

A. In accordance with the Tribal Treasurer Responsibility Statute, the Committee has the authority to request documents and information and shall report to the full Tribal Council through the Treasurer's report.

B. Tribal Council shall request a recommendation by the Committee prior to approving any action required by this Statute.

(Source: WOS 2020-006, February 10, 2020, Section IV)

6.305 ANNUAL BUDGET CALENDAR

A. By **January 21st** of the year prior to the Annual Budget Fiscal year, a budget calendar will be approved by Tribal Council and posted on the Tribal website.

B. The budget calendar shall include the dates for the following:

- 1.** The Annual Meeting
- 2.** Accounting Department distribution for Budget Procedures
- 3.** Report of the General Fund Balance to Tribal Council
- 4.** Allocation Amounts of General Funds for Branches of Government
- 5.** Deadline for Cost Recovery budget submissions to Tribal Council
- 6.** Deadlines for General Fund Budget submission to Tribal Council
- 7.** Deadline for Grant/Federal Contract Funds that are reoccurring or anticipated submission to Tribal Council

8. Department / Branch Hearings
9. Proposed final budget available to Tribal Citizens
10. Public Hearing
11. Final Annual Budget approved by Tribal Council

(Source: WOS 2020-006, February 10, 2020, Section V)

6.306 ANNUAL MEETING

In accordance with the Tribal Constitution, the Executive Branch is responsible to call an annual meeting of the Tribal Membership each spring. The date of the annual meeting will be provided to Tribal Council and included in the Annual Budget Calendar.

(Source: WOS 2020-006, February 10, 2020, Section VI)

6.307 BUDGET PROCEDURES

Each year, **by February 1st**, the CFO shall distribute to Department Managers, Department Directors, and the Branch Managers or other appropriate authorized staff, the Budget Procedures that includes any updates that may impact the budget or budget process including, but not limited to the following:

- A. Budget templates
- B. Budget Planning Rates for:
 1. Indirect Cost Rate
 2. Fringe Benefit Rate
 3. Space Costs
 4. Cost of Living (COLA)

(Source: WOS 2020-006, February 10, 2020, Section VII)

6.308 GENERAL FUND REVENUES ANNUAL BUDGET

A. Any unrestricted general fund dollars that were budgeted but not expended in the year they were budgeted shall automatically be returned to the general fund unrestricted balance, known as the “General Fund Balance”, unless otherwise approved by Tribal Council. General Fund Revenues are the unrestricted monies received by the Tribal Government from enterprises and other sources. For Budget purposes the General Fund includes current year anticipated revenue, any remaining unrestricted funds from prior years known as the General Fund Balance and any funds that have been restricted as Supplemental Funding, but are unspent. Each year, by **February 1st**, the Office of the Treasury, with information and assistance from the Accounting Department, shall report to Tribal Council the General Fund Amounts that include approximate amount of the “General Fund Balance” and the anticipated amount of revenue that may be utilized to formulate the budget.

B. Each year, by **February 15th**, Tribal Council shall approve the Governmental Branches allocation amounts of general funds that each branch of government may utilize for their base budget for the following Fiscal Year.

C. The allocated amounts of general funds will be based on anticipated revenues, anticipated outlays, available funds and historical numbers for the last three (3) years of actual spending by Governmental Branches.

D. Tribal Council may also, by Tribal Resolution, allocate and restrict any anticipated revenue, any remaining unrestricted funds from prior years known as the General Fund Balance and any funds that have been restricted as Supplemental Funding, but are unspent from the prior year to be set aside for the proposed Governmental Branches budgets.

(Source: WOS 2020-006, February 10, 2020, Section VIII)

6.309 COST RECOVERY FUND ANNUAL BUDGET

A. Cost Recovery Revenues include Fringe Benefits, Maintenance, Indirect Costs and other restricted revenues.

B. The budget shall be based on anticipated Cost Recovery Revenues in the year being planned, current fund balance for the Cost Recovery Pool, anticipated outlays, and historical numbers for the last three (3) years of actual spending by Governmental Branches.

(Source: WOS 2020-006, February 10, 2020, Section IX)

6.310 GRANT/FEDERAL CONTRACT BUDGET

A. Grant/Federal Contract Revenues are recurring or anticipated monies that are received by the Tribe that includes but not limited to Indian Health Services, IHS; Bureau of Indian Affairs, BIA 638; Native American Housing Assistance and Self Determination Act, NAHASDA; and any other reasonably anticipated funds.

B. Tribal Council shall approve the Grant/Federal Contract Revenues budget as part of the Tribal-wide budget by the annual meeting.

(Source: WOS 2020-006, February 10, 2020, Section X)

6.311 BUDGET SUBMISSIONS

A. All proposed Governmental Branches budgets whether utilizing General Fund Revenues, Grant/Federal Contract Revenues shall be submitted to Legislative Office by **March 15th** of each year. Such budgets shall be made available to the Chief Financial Officer.

- 1.** If there is a deletion of any program or service, a justification as to why the program or service is no longer needed or not sustainable shall be provided with the proposed budget by the Branch of Government.
- 2.** If there are any additions to program or service, a justification as to why the program or service is necessary shall be provided with the proposed budget by the Branch of Government.

B. Based on the input from the public hearings, Tribal Council may make deletions or

additions to Governmental Branch budgets. If there is any deletions or additions, Tribal Council shall notify the appropriate entity after all public hearings have been conducted.

(Source: WOS 2020-006, February 10, 2020, Section XI)

6.312 BUDGET HEARINGS

- A.** Budget Hearings may be held by Tribal Council, the Committee or both.
- B.** All hearings shall be posted, held in open session and shall not require a quorum of Tribal Council and/or Committee.
- C.** Governmental Branch hearings are held to gather information from one or more Department Managers, Department Directors, Branch Managers or other appropriate authorized staff.
- D.** Any Department Managers, Department Directors, and the Branch Managers or other appropriate authorized staff may request a time for a Governmental Branch hearing.
- E.** All Governmental Branch hearings shall be held during the first full week of April.
- F.** A Public hearing for Tribal Citizenship input shall be held during the second full week of April. At the Public hearing, copies of the draft budget will be provided to the Tribal Citizens.

(Source: WOS 2020-006, February 10, 2020, Section XII)

6.313 APPROVAL PROCESS

- 1.** Tribal Council shall approve the annual budget by the annual meeting.
- 2.** The annual budget shall be approved by Tribal Resolution and shall include an attached detailed worksheet of the tribal-wide budget.

3. The Tribal Council approved budget shall be available for Tribal Citizens at the Annual Meeting, in accordance with the Constitution.
4. The budget shall be deemed enacted if not expressly vetoed by the Tribal Chair within thirty (30) days of submission.
5. If the Chair vetoes the budget, then he or she must submit an Executive proposed signed Tribal Resolution and new proposed budget along with the veto to Tribal Council within the thirty (30) day time period allowed for the veto.
6. The Chair's veto and proposed budget must be made available to Tribal Citizens and posted to the Tribe's website.
7. Tribal Council may enact a budget by either overriding the veto by an affirmative vote of seven (7) Councilors or alternatively enact the Chair's submitted signed Tribal Resolution with the proposed budget by an affirmative majority vote of Tribal Council. In enacting the Chair's proposed budget, Tribal Council shall approve it as presented and shall not make any changes, additions or deletions to the proposed budget.
8. If the veto is not overridden within the time period as set forth in the Administrative Procedures Act, nor has Tribal Council approved the Chair's proposed budget, the last enacted budget will take effect at the beginning of the fiscal year.

(Source: WOS 2020-006, February 10, 2020, Section XIII)

6.314 ALLOCATION OF GENERAL FUND BALANCE

- A. Upon approval of the budget, Tribal Council may allocate and restrict any anticipated revenue, any remaining unrestricted funds from prior years known as the General Fund Balance and any funds that have been restricted as Supplemental Funding, but are unspent from the prior year.

B. The funds will be restricted by Resolution and will identify a specific classification of how the funds may be used, i.e. Supplemental Funding, Economic Development, Investment, sinking fund, or other specific use.

C. Funds shall only be used for the restricted use as stated in the enacted Resolution.

(Source: WOS 2020-006, February 10, 2020, Section XIV)

6.315 SUPPLEMENTAL FUNDING PROCESS

A. Supplemental funding shall be appropriated by Resolution from the monies that have been designated and restricted for Supplemental Funding.

B. A request for supplemental funding shall include the following information:

- 1.** The reason for the requested supplemental funding:
 - a.** Emergency
 - b.** Specific additional service or program
 - c.** Deficiency budget;
- 2.** A brief narrative;
- 3.** The amount requested;
- 4.** Required signatures;
- 5.** From where the funding is being requested, i.e. “prior year funds”.

C. All requests must be received in accordance with Tribal Council and/or Committee Policy. Such policies shall include dates and deadlines for submissions, posting requirements and the approval process.

D. Special Tribal Council or Committee meetings may be called for emergency funding requests.

E. Any monies not expended during the fiscal year shall revert to General Fund Balance funds.

(Source: WOS 2020-006, February 10, 2020, Section XV)

6.316 BUDGET MODIFICATIONS

A. No monies can be moved between two different revenue sources. Revenue sources are General Funds, Cost Recovery, and Grant/Federal Contract Funds.

B. Within a fiscal year, no more than 4% of the total amount of either budget can be moved between two different departments or individual program not within a specific department as listed on the approved Tribal-wide Budget Worksheet, without Tribal Council approval. Such requests shall be posted for comment on the Tribal website for at least seven (7) days prior to Tribal Council approval. Tribal Council shall act on the request within thirty (30) days of receipt of the request.

C. Operating Budget Modifications are the transfer of monies between line-items within an individual fund within the same fiscal year are allowable, within the following criteria:

1. Prior to approving any budget modification involving space costs, the CFO shall ensure that all space costs are adequately funded.

D. All budget modifications must be reviewed by the CFO to ensure that no material change in an existing service or program is altered either in nature or scope. If there is a material change in an existing service or program by either a change in the nature or scope of the service or program, then the budget modification shall be submitted to Tribal Council for approval.

(Source: WOS 2020-006, February 10, 2020, Section XVI)

3.617 ADDITIONAL REVENUES

A. If actual revenues during a fiscal period exceed the projected revenues, the CFO, on a quarterly basis, will report to Tribal Council the amount of excess funds, the date of the receipt of the funds and the funding source.

B. If actual revenues during a fiscal period fall short of projected revenues, Tribal Council shall take necessary actions to ensure that funding for approved budgets is available by adding additional sources of revenue to the budget or shall declare a budget emergency.

(Source: WOS 2020-006, February 10, 2020, Section XVII)

6.318 EMERGENCY BUDGETS/RECISSIONS

A. At any time during the fiscal year the Treasury Office, based on a revenue analysis and other factors, may recommend to Tribal Council to declare a budget emergency.

B. If Tribal Council declares a budget emergency, Tribal Council shall provide guidance and criteria for amended budgets that must be submitted by the Governmental Branches within the timeframe provided by Tribal Council. All amended budgets must be passed by Tribal Resolution.

C. Upon the declaration of a budget emergency by Tribal Council, Tribal Council shall take necessary steps to notify Tribal Citizens of the impact of the budget emergency.

(Source: WOS 2020-006, February 10, 2020, Section XVIII)

6.319 SYSTEMATIC REDUCTIONS OF BUDGETS

Only through an approved Resolution may any systematic cuts to budgets occur.

(Source: WOS 2020-006, February 10, 2020, Section XIX)

6.320 CHECK SIGNERS

The Tribal Chair shall have the authority to designate check signers and file the appropriate authorized forms to carry out this function.

(Source: WOS 2020-006, February 10, 2020, Section XX)

6.321 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 2020-006, February 10, 2020, Section XXI)

6.322 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 2020-006, February 10, 2020, Section XXII)

6.323 OTHER RELATED STATUTES

See Waganakising Odawak Statute (WOS) 2014-001 Tribal Treasurer Responsibility, WOS 2011-013 Treasury Statute, and WOS 2011-009 Accounting Statute, or as may be amended.

(Source: WOS 2020-006, February 10, 2020, Section XXIII)

Chapter 4. Reserved

Codification Note: The chapter previous located here has been relocated to Title XV at 15.101

Chapter 5. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.201

Chapter 6. Reserved

Codification Note: The chapter previously here has been relocated to Title XV at 15.301

Chapter 7. Lewis and Doris Adams' Tribal Holiday

6.701 SHORT TITLE AND PURPOSE

A. Short Title

This Statute may be cited as the “Adams Tribal Holiday”.

B. Purpose

The purpose of the Adams Tribal Holiday is to bestow posthumously upon Lewis Stephen Adams Sr. and Doris Amelia Kishigo-Adams the Tribe's greatest honors and accolades by setting aside a special day of recognition for their many contributions and gifts to our Tribal community.

(Source: WOS 2009-017, July 12, 2009, Section I)

6.702 ACKNOWLEDGEMENTS AND FINDINGS

Tribal Council acknowledges and finds the following:

- A. Lewis Stephen Adams Sr, Wyaudtnoong (Little Detroit) was born June 22,1922; married Doris Amelia Kishigo July 25,1946; and walked on January 27,1964;
- B. As a young man Lewis was winner of the *1937 National Soap Box Derby* at Akron Ohio and later went on to win local notoriety as a *Golden Gloves Boxer*;
- C. Lewis served honorably in the United States Marine Corp from 1942 to 1946 seeing action on the volcanic island of Iwo Jima;
- D. As a veteran he was Commander of *AMVETS Post 50* (an all Indian post), he organized toy collection repairs and delivery for the Indian Orphanage in Marquette and was a friend of Ira Hayes;

- E.** He started the Little Traverse Indian Club of Harbor Springs and helped organize the last *Hiawatha Pageant* in Ottawa Stadium;
- F.** Lewis’s reputation as a community leader prompted a request from Governor Williams of Michigan for a Traditional Blessing and Ceremony for the Mackinaw Bridge that was rapidly nearing completion;
- G.** In 1955, on top of the northern tower of the Mackinaw Bridge, Lewis performed a Pipe Ceremony and prayed for the blessings of *Gitchi-Manitou* and the safe completion of the bridge;
- H.** Doris Amelia Adams “Gijigowi Kwe” was born Aug. 8, 1925, in Petoskey to Mitchell and Amelia Kishigo. She was a graduate of Harbor Springs schools, and later married Lewis Adams, with whom she had seven children. Doris walked on February 11, 2008, at the age of 82. When Lewis died unexpectedly from a heart attack at the age of 41, Doris, who had been a stay-at-home mom for several years, took on two jobs to support her family — one at the *Community Action Agency*, and another as a bartender for *Birchwood Farms Lodge*.
- I.** After working with the *Community Action Agency* for several years Doris was offered a position with the *State of Michigan Department of Labor*, where she worked for more than 30 years. She served as an equal employment opportunity specialist, as well as a civil rights representative for nine Lower Peninsula counties and the entire Upper Peninsula.
- J.** During her time of working for the State, Doris attended the University of Michigan and later completed her business degree at Western Michigan University at the age of 56.
- K.** In addition to being an active member of the *Little Traverse Bay Bands (LTBB) of Odawa Indians*, Doris served for several years on the *Michigan Commission on Indian Affairs*. She was instrumental in writing the *Indian Tribal Welfare Act*, as well as being the only non-reservation Indian to speak at the hearings on the *Indian Education Act* in Washington D.C.

- L.** At the time of her retirement, Doris was honored by the U.S. Congress for her lifelong commitment to public service.
- M.** Doris continued her public service working for the LTBB Odawa Indians Membership Committee until 2005.
- N.** In 1998, the LTBB Tribal Council appointed Doris to a six-year term as a tribal appellate judge. She served in this capacity until September of 2003.

(Source: WOS 2009-017, July 12, 2009, Section II)

6.703 CREATION OF ADAMS HOLIDAY

- A.** The Tribal Council hereby creates the Adams Holiday as a recognized Tribal Holiday.
- B.** The Holiday will be held on the first Monday in September.

(Source: WOS 2009-017, July 12, 2009, Section III)

6.704 SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of this ordinance 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, paragraph, subsection or section shall be considered to stand alone and to be deleted from this ordinance, the entirety of the balance of the ordinance to remain in full and binding force and effect.

(Source: WOS 2009-017, July 12, 2009, Section IV)

6.705 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 2009-017, July 12, 2009, Section V)

Chapter 8. Tribal Sovereignty Day

6.801 DECLARATION OF SOVEREIGNTY DAY

The Little Traverse Bay Bands of Odawa Indians Tribal Council designates September 21, 1995, and September 21 of each subsequent year to be Waganakising Odawa Tribal Sovereignty Day. The Little Traverse Bay Bands of Odawa Indians Tribal Council declares this date to be a Tribal holiday to be observed by all Tribal employees.

(Source: WOS 1995012, August 27, 1995)

Chapter 9. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.401

Chapter 10. Open Meetings

6.1001 PURPOSE

The purpose of this Statute is to mandate that all Regular, Special and Emergency meetings of the Little Traverse Bay Bands of Odawa Indians Tribal Council with the exception of phone conference calls and closed sessions be open to Tribal Citizens pursuant to Constitutional Article VII J (8) and provide a reasonable opportunity for Tribal Citizens to be heard.

(Source: WOS 2015-014, July 24, 2015, Section I)

6.1002 REPEAL

This Statute repeals and replaces Waganakising Odawak Statute 2010-10, and 2000-014 *Open Meetings*.

(Source: WOS 2015-014, July 24, 2015, Section II)

6.1003 DEFINITIONS

- A. “Immediate Family” or “Family member” 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.
- B. “Official Act” means to take action to approve or disapprove.
- C. “Public” means Little Traverse Bay Bands of Odawa Indians Tribal Citizens and their immediate family members.
- D. “Tribal Citizen” means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.

E. “Tribe” shall mean Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2015-014, July 24, 2015, Section III)

6.1004 REGULAR, SPECIAL AND EMERGENCY MEETINGS

A. Regular Meetings: In accordance with the Constitution, Tribal Council shall hold at least one (1) regularly scheduled meeting each month but may schedule additional meetings as needed.

B. Special Meetings: Tribal Council may between regularly scheduled meetings hold a special meeting.

C. With the exception of emergency action described in subsection (D), all official action must take place at regular and special meetings properly called.

D. Emergency Meeting: In situations when immediate official action of the Tribal Council is necessary to preserve or promote essential interests of the Tribe.

(Source: WOS 2015-014, July 24, 2015, Section IV)

6.1005 OPEN MEETINGS

A. Pursuant to constitutional Article VII, J (8), all meetings of Tribal Council except phone conferences and closed sessions are open to all Tribal Citizens. By majority vote, the Tribal Council may exclude anyone who is not within the definition of public from all or part of a meeting.

B. All others excluding official business of Tribal employees, and appointed officials who request attendance at any Tribal Council meeting must contact a Tribal Councilor who shall forward such request to all of the Tribal Council members.

- C. Any electronic recordings of Tribal Council meetings by individuals shall be prohibited.
- D. Before a Tribal Council meeting starts or upon entering a Tribal Council meeting in progress, any representative from the media shall immediately present their media credentials to Tribal Council.

(Source: WOS 2015-014, July 24, 2015, Section V & WOS 2020-001, January 15, 2020, Section V(C, D))

6.1006 PUBLIC COMMENT PERIOD

The following rules shall apply to public comment:

- A. Tribal Council shall allow for at least one public comment period per regularly scheduled meeting. Tribal Council shall allow for a reasonable amount of time for comments from the public but may limit such time for comments as necessary to conduct business.
- B. Only the individuals within the definition of public may provide comment during public comment period.
- C. Tribal Council shall only accept verbal comments from individuals physically present for the public comment period.
- D. Written public comments will be accepted by the Legislative Office. All comments must be in writing and shall be open to review within the Legislative Office in accordance with any laws regarding such documents.
- E. Initiatives and referendums shall go through the proper legislative procedures.
- F. Unruly behavior, abusive language, or any personal attacks will not be tolerated. If unacceptable behavior occurs, a person may be requested to leave by consensus of Tribal Council.

G. Tribal Council will not accept comments nor discuss matters that are under investigation or are being adjudicated before an administrative or judicial tribunal.

H. Tribal Council will not accept comments nor discuss matters that relate to the following:

1. Personnel matters
2. Personal information affecting an individual's privacy, including personnel matters or medical conditions or similar matters that constitute a clearly unwarranted invasion of personal privacy unless it pertains to the Tribal Citizens who is raising the matter.
3. Matters covered by attorney client privilege.
4. Matters considered confidential by other Statutes.
5. Matters regarding confidential business or legal matters of the Tribe or a Tribal Citizen.
6. Matters that could impair a criminal investigation.

(Source: WOS 2015-014, July 24, 2015, Section VI)

6.1007 CLOSED SESSION

When necessary to protect the interests of the Tribe and fulfill its responsibilities to the Tribal Citizenship, Tribal Council may by motion and majority vote of a quorum, go into closed session during a regular, special or emergency meeting.

A. Tribal Council shall not discuss anything in closed session beyond the scope of the matters for which the close session was called. Closed session shall be limited to:

1. Personnel under the authority of Tribal Council.

2. Litigation.
3. Confidential business matters.
4. Legal matters.
5. Other matters that raise significant privacy or confidentiality concerns.

B. Tribal Council shall return to open session immediately upon completion of the close session discussions. Any action considered in closed session that can be taken in open session without harming Tribal interests shall be taken after the Tribal Council returns to open session.

(Source: WOS 2015-014, July 24, 2015, Section VII)

6.1008 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 2015-014, July 24, 2015, Section VIII)

6.1009 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 2015-014, July 24, 2105, Section IX)

Chapter 11. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.501

Chapter 12. Reserved

Codification Note: The statute previously located here has been relocated to Title XIV

Chapter 13. Tribal Treasurer Responsibility

6.1301 PURPOSE

This Statute is hereby enacted to define the Tribal Council Treasurer’s responsibilities and reporting that are explicitly enumerated in the Constitution, Article VII (3). This Statute repeals and replaces WOS 2005-014, 2009-002 and 2010-003.

(Source: WOS 2014-001, January 23, 2014, Section I)

6.1302 DEFINITIONS

- A.** The “Tribe” shall mean the Little Traverse Bay Bands of Odawa Indians.
- B.** “Treasurer” means the Tribal Council Treasurer.

(Source: WOS 2014-001, January 23, 2014, Section II)

6.1303 CONSTITUTIONAL DUTIES OF THE TREASURER

The Treasurer shall Article VIIC (3): *“submit an annual report, prepared by the accounting department, to the Tribal Membership at its annual meeting. This report shall include all funds received by the Little Traverse Bay Bands of Odawa Indians or through Tribal enterprises. This report shall include all appropriations of the operating funds and Tribal enterprises by department showing how the funds were spent and to include profit and loss statements where applicable.”*

- 1.** Be required to acquire a surety bond in the amount necessary to cover funds that may be accessible to individual authorized signers.

(Source: WOS 2014-001, January 23, 2014, Section III)

6.1304 REPORTING REQUIREMENTS

A. The Treasurer shall make available a quarterly report, prepared by the accounting office that contains the following information;

- 1.** All funds received by the Tribal Government and all Tribal Enterprises;
- 2.** All appropriations from the General Fund to the Tribal Government and each of the Tribal Enterprise.
- 3.** All actual funds that are spent by department and programs within the Tribal Government and each of the Tribal Enterprises.
- 4.** A profit and loss statement for each of the Tribal Enterprises, including a statement of Earnings Before Interest, Taxes, Depreciation, and Amortization (EBITDA), equity and short and long-term liabilities and liquid ratio and debt to EBITDA ratio.

B. This report shall be available to all Tribal Citizens upon request.

(Source: WOS 2014-001, January 23, 2014, Section IV)

6.1305 OTHER DUTIES REQUIRED BY THE TRIBAL COUNCIL

This Statute hereby establishes the Tribal Council Appropriations and Finance Standing Committee

A. The Committee shall:

- 1.** Consist of three Tribal Council Members assigned by motion, and majority vote at a regularly scheduled Tribal Council meeting and;
- 2.** Be chaired by the Tribal Treasurer and;
- 3.** Have authority to review all the Tribe's accounts including but not limited to Enterprises and Tribally owned corporations and;

4. All requests and responses for information shall be forwarded to all Tribal Council Members and;
5. All committee members shall be compensated in accordance with the Tribal Council's stipend policy for attendance at meetings that are scheduled in advance and advertised and;
6. The Committee shall report to the full Tribal Council through the Treasurer's report.

(Source: WOS 2014-001, January 23, 2014, Section V)

B. The Treasurer shall:

1. Be signatory on all real-estate transactions and;
2. Shall be an authorized signers for expenditures from the approved Tribal Council Budget and;
3. Be assigned other duties as approved by Tribal Council.

(Source: WOS 2014-001, January 23, 2014, Section V)

6.1306 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 Appropriation and Finance from the Judiciary and Executive Departments, Programs and staff; including legal counsel and consultants.

(Source: WOS 2014-001, January 23, 2014, Section VI)

6.1307 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 2014-001, January 23, 2014, Section VII)

6.1308 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 2014-001, January 23, 2014, Section VIII)

Chapter 14. Reserved

Codification Note: The chapter previously located here has been relocated to Chapter 1. of this Title.

Chapter 15. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.601

Chapter 16. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.701

Chapter 17. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.801

Chapter 18. Reserved

Codification Note: The statute previously located here has been relocated to Title XIV, Chapter 11 at 14.1101

Chapter 19. Public Documents

6.1901 PURPOSE

This Statute defines and qualifies public documents by the Tribe and provides for particular exempt documents from public disclosure regarding the records of Little Traverse Bay Bands of Odawa Indians as mandated by the Tribal Constitution, Article VII D (7) and acknowledges the rights of Tribal Citizens to have access to public documents.

(Source: WOS 2010-009, July 25, 2010 Section I)

6.1902 REPEAL OF PREVIOUS LAW and REGULATIONS

This Statute repeals and replaces Waganakising Odawak Statute 2009-025 Disclosure of Public Documents, Waganakising Odawak Statute 2008-010 *Disclosure of Public Documents* and Waganakising Odawak Statute 2006-024 *Disclosure of Public Documents Act* and any other previously enacted laws, amendments, approved rules or regulations.

(Source: WOS 2010-009, July 25, 2010 Section II)

6.1903 DEFINITIONS

- A. “*Appropriate Authority*” means the officials, individual employees and/or managers who possesses the authority to make the decision regarding public documents within their respected government branch or division, department, agencies, entity, enterprise or office.
- B. “*Malice*” means the intent, without just cause or reason, to commit a wrongful act that will result in harm to another.
- C. “*Public*” means any Tribal Citizen or an authorized representative of a Tribal Citizen who has a signed notarized statement of authority.
- D. “*Public Documents*” means a writing prepared, owned, used, in the possession of, or

retained by a government branch or division, department, agency, commission, board, committee, entity, enterprise or office in the performance of an official function, from the time it was created.

E. “*Reckless indifference*” means conscious or reckless disregard of the consequences of one's acts or omissions.

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

(Source: WOS 2010-009, July 25, 2010 Section III)

6.1904 RIGHTS OF TRIBAL CITIZENS

A. Tribal Citizens have a right to review public documents unless exempted.

B. Only Tribal Citizens have a right to review public documents.

(Source: WOS 2010-009, July 25, 2010 Section IV)

6.1905 OPEN TO DISCLOSURE

A. All records except those specifically cited as exemptions are considered public documents by Statute and must be disclosed unless exempt by Statute.

B. All writings, applies to any handwriting, typewriting, printing, Photostating, photographing, photocopying and every other means of recording. It includes letters, words, pictures, sounds or symbols, or combinations thereof, as well as papers, maps, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content. It does not include computer software.

(Source: WOS 2010-009, July 25, 2010 Section V)

6.1906 DOCUMENTS EXEMPT FROM PUBLIC DISCLOSURE

A. Documents that contain specific personal information affecting an individual's privacy are exempt from disclosure. This exemption would include employment personnel files, social security numbers, medical records and similar records that constitute a clearly unwarranted invasion of an individual's privacy. This exemption does not include withholding information pertaining to the Tribal Citizen who is requesting the record except for the following:

1. Sealed adoption records within the Tribal Citizen's enrollment file that have been sealed under a court order.
2. Records covered by attorney client privilege.
3. Records specifically exempt by other Statutes.

B. The following records are also exempt from public disclosure:

1. Records that contain confidential business, or potential business dealings
2. Records that contain legal matter to the Tribe or a Tribal Citizen.
3. Records that rise significant privacy or confidentiality concerns for the Tribe or a Tribal Citizen.
4. Records within a pending investigation either before an administrative or judicial proceeding involving the Tribe or a Tribal Citizen.
5. Records that could impair a criminal investigation.
6. Records specifically exempt by other statutes.

(Source: WOS 2010-009, July 25, 2010 Section VI)

6.1907 ACCESS FOR REVIEW

The appropriate authorities within the following governmental divisions shall make available for review all public documents, unless exempt by applicable law:

1. Executive
2. Legislative
3. Judiciary
4. Prosecutor
5. Election Board

(Source: WOS 2010-009, July 25, 2010 Section VII)

6.1908 REVIEW OF DOCUMENTS

- A.** Any request for review of documents must be made by a Tribal Citizen or an authorized representative who is also a Tribal Citizen.
- B.** Request for review may be made in person or in writing and must be accompanied with a copy of a Tribal identification card.
- C.** Each request must be specific in nature as to what documents are being requested for review.
- D.** Requests for review may be limited to normal office hours. Such office hours shall be posted by the appropriate authority.
- E.** Whenever possible the appropriate authority shall make the documents available immediately for review, or as soon as possible thereafter.

F. If the request is made by an employee or former employee who wishes to review his or her own personnel file shall complete the personnel file request form with the Human Resources Department. Employees or former employees may review or obtain a copy of their own personnel file without cost.

G. Copies should be provided upon request unless the document contains sensitive matters that may restrict the document to viewing only and no copies shall be provided.

H. If copies are provided, the appropriate authority may charge a reasonable fee for cost of copies. Such cost shall be determined and made known to the Tribal Citizen prior to the incurrence of cost.

(Source: WOS 2010-009, July 25, 2010 Section VIII)

6.1909 REQUIRED REGULATIONS

A. The Tribal Executive shall develop regulations to implement this Statute establishing:

- 1.** A method for defining classifications of documents.
- 2.** A method for redacting portions of documents.
- 3.** A method for marking, controlling, keeping and releasing document.
- 4.** A schedule for reasonable cost for release of documents.

B. Such regulations shall be submitted to Tribal Council for approval.

(Source: WOS 2010-009, July 25, 2010 Section IX)

6.1910 LIMITED WAIVER OF SOVEREIGN IMMUNITY

A. The Tribe clearly and expressly waives its sovereign immunity to the remedies set forth in this Statute for officials, individual employees and/or managers who act beyond the scope of their duties and authority in which the actions include either acting with malice or with reckless indifference to the rights afforded under this Statute to Tribal Citizens.

B. The Tribe clearly and expressly waives its sovereign immunity to the remedies set forth in this Statute for officials, individual employees and/or managers acting with malice or reckless indifference in an effort to use or disclose exempt public information or allowing the improper use of such information.

(Source: WOS 2010-009, July 25, 2010 Section X)

6.1911 REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS

A. Any charge of violation must be filed with the Tribal Court within thirty (30) days of the alleged violation.

B. In any action filed under this Statute, the Tribal Court may grant the remedies set forth for violations as follows:

1. *Equitable Remedies.* If the Tribal Court finds that a violation occurred, its judgment must specify an appropriate remedy or remedies for that violation. The remedies may include, but are not limited to:

- a)** An order to release the information or portions of the information;
- b)** An order to cease and desist from the unlawful action specified in the order;

2. *Damages.* A complainant may recover damages against officials, individual employees and/or managers if the complainant demonstrates that the officials, individual employees and/or managers violated this Statute with malice or with reckless indifference to the complainant. Such damages may include actual costs, inconvenience, mental anguish and other non-pecuniary losses.

C. The Tribal Court may award reasonable attorney fees and costs in its discretion to the prevailing party.

D. The total sum of damages received by the Complainant may not exceed \$500.00, excluding the amount for actual costs or attorney fees, if awarded.

E. The Tribal Court may award the opposing party any penalties for frivolous claims or any other appropriate remedies as the Tribal Court deems appropriate.

(Source: WOS 2010-009, July 25, 2010 Section XI)

6.1912 SAVINGS CLAUSE

In the event that any phrase, provision, part, paragraph, subsection or section of Disclosure of Public Documents 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, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from these Rules and Procedures, the entirety of the balance of these Rule and Procedures remain in full and binding force and effect.

(Source: WOS 2010-009, July 25, 2010 Section XII)

6.1913 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 2010-009, July 25, 2010 Section XIII)

Chapter 20. Application of Foreign Law

6.2001 PURPOSE

The jurisdiction of the Little Traverse Bay Bands of Odawa Indians (LTBB or Tribe) over persons and entities within its territory is determined by the Tribe's inherent sovereignty, the Constitution and laws of the Tribe, and federal statutory and case law, which changes over time. Generally, the Tribe has full criminal and civil jurisdiction over its members within its territory, and outside its territory for certain Treaty rights and child welfare purposes. The extent of the Tribe's civil and criminal jurisdiction over non-LTBB members often requires a case-by-case analysis. The purpose of this Statute is to establish law for persons within LTBB territory in situations where LTBB's jurisdiction does not apply.

(Source: WOS 2005-03, March 20, 2005, Section I)

6.2002 APPLICATION OF FOREIGN LAW

All persons within LTBB's territory and that do not fall under the jurisdiction of LTBB shall be required to follow United States and State of Michigan civil and criminal laws.

(Source: WOS 2005-03, March 20, 2005, Section II)

6.2003 SOVEREIGN IMMUNITY

This Statute is neither a real or implied waiver of LTBB sovereign immunity. This Statute does not reduce or supplant jurisdiction of LTBB over Non-Tribal Members where LTBB laws apply.

(Source: WOS 2005-03, March 20, 2005, Section III)

6.2004 EFFECTIVE DATE

This Statute takes effect thirty days from adoption [March 20, 2005].

(Source: WOS 2005-03, March 20, 2005, Section IV)

Chapter 21. The Tribal Emblem and Seal of the Waganakising Odawak Nation

Codification Note: This repeals and replaces WOS 2006-015

6.2101 PURPOSE

The Little Traverse Bay Bands of Odawa Indians (LTBB) recognizes that the Tribal Emblem and Seal represents pride in the accomplishments of the Waganakising Odawak, and it is desired that the Tribal Emblem and Seal be displayed as a symbol of acknowledgment of the sovereign nation status of the Waganakising Odawak. This Statute repeals and replaces any previous Statute including WOS 2006-015, The Tribal Seal of the Waganakising Odawak Nation.

(Source: WOS 2016-004, July 15, 2016, Section I)

6.2102 DEFINITIONS

- A. “**LTBB or Tribe**” means the Little Traverse Bay Bands of Odawa Indians.
- B. “**Secretary**” means the Tribal Council Secretary who is responsible in maintaining and protecting the Tribal Seal.
- C. “**Tribal Citizen**” means a person who is an enrolled member of the Little Traverse Bay Bands of Odawa Indians.

(Source: WOS 2016-004, July 15, 2016, Section II)

6.2103 TRIBAL EMBLEM

The Tribal Emblem was approved by Tribal Council on December 5, 1999, and it depicts an Anishinaabe paddling a canoe on a lake, an eagle soaring across the sky in front of the sun, a crooked tree branch, an elk, a bear and a turtle, enclosed within a circle. Hanging from the bottom of the circle are six Eagle feathers. Along the top of the circle are the words, in all caps: “Little Traverse Bay Bands of Odawa Indians” and underneath the feathers is the words “Waganakising

Odawa”.

(Source: WOS 2016-004, July 15, 2016, Section III)

6.2104 TRIBAL SEAL

- A.** The Tribal Seal is the embossed Tribal Emblem, approximately two (2) inches in diameter.
- B.** The Tribal Seal shall be used for the official business of the Tribe and shall not be used by any other entity.
- C.** The Seal shall be used as the identification mark signifying the authenticity of a document.

(Source: WOS 2016-004, July 15, 2016, Section IV)

6.2105 PROTECTOR OF THE TRIBAL SEAL

The Secretary “shall maintain and protect the Tribal Seal” by ensuring safe storage of the Tribal Seal, and that it shall only be used for official Tribal business.

(Source: WOS 2016-004, July 15, 2016, Section V)

6.2106 USE OF THE EMBLEM

- A.** The Emblem may be used by any Tribal Citizen, person, or entity, provided that its use does not mislead or convey any impression of official action or endorsement by the Tribe unless the Tribe has specifically authorized and/or approved the use of the Emblem.
- B.** The Emblem may be used with or without any of the surrounding words of “Little Traverse Bay Bands of Odawa Indians” or Waganakising Odawa”.

C. The Emblem may be used for such commercial or non-profit activities such as placing it on mugs, clothing items, websites, signs, novelty items and any other items for display or resale.

(Source: WOS 2016-004, July 15, 2016, Section VI)

6.2107 UNAUTHORIZED USE; CONVICTION; PENALTY

Any unauthorized use of the Tribal Seal, shall be deemed a civil offense and may be fined up to Five Hundred dollars (\$500.00).

(Source: WOS 2016-004, July 15, 2016, Section VII)

14.2108 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 2016-004, July 15, 2016, Section VIII)

14.2109 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 2016-004, July 15, 2016, Section IX)

14.2110 OTHER RELATED STATUTES

See WOS 2012-017 Tribal Secretary Responsibilities, or as may be amended.

(Source: WOS 2016-004, July 15, 2016, Section X)

Chapter 22. Judicial and Prosecutorial Appointments

6.2201 PURPOSE

This Judicial and Prosecutorial Appointments Statute is hereby enacted to establish a standard method of selecting judges, justices, and prosecutors.

(Source: WOS 2006-003, March 19, 2006, Section I)

6.2202 DEFINITIONS

- A. The “**Tribe**” shall mean the Little Traverse Bay Bands of Odawa Indians (LTBBOI).
- B. “**Qualified Applicants**” means an applicant that meets the eligibility and restriction requirements of the judicial and prosecutorial positions listed in the LTBBOI Constitution.

(Source: WOS 2006-003, March 19, 2006, Section II)

6.2203 DEVELOPMENT OF PROCEDURES; RECEIPT OF NOMINATIONS; SUBMISSION TO TRIBAL COUNCIL

- A. The Tribal Executive shall develop an Administrative Procedure to receive applications from “qualified applicants” to fill the Tribe’s Judicial and Prosecutorial offices, and to fill any vacancies in the Tribe’s Judicial and Prosecutorial offices. The procedure shall provide for recommendations originating from the Executive, individual applications, and recommendations by official action at a Tribal Membership meeting. The procedure shall ensure each submission is for a specific position and term and shall establish timelines for making nominations to fill vacancies.
- B. Tribal Executive shall receive all petitions and applications for nomination to the positions of judges, justices, and prosecutors and shall ensure that only qualified applicants are forwarded to the Tribal Council as nominations.

C. The submission of nominations to the Tribal Council for appointments, and to fill vacancies, shall be prepared by the Tribal Executive. Each submitted nomination must be for a specific position and term.

(Source: WOS 2006-003, March 19, 2006, Section III)

6.2204 APPOINTMENTS

Tribal Council shall adopt a procedure for making judicial and prosecutorial appointments.

(Source: WOS 2006-003, March 19, 2006, Section IV)

6.2205 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 2006-003, March 19, 2006, Section V)

6.2206 EFFECTIVE DATE

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

(Source: WOS 2006-003, March 19, 2006, Section VI)

**Chapter 23. Membership in MAST, NIGA, and NCAI – Repealed and Replaced by WOS
2012-001**

Codification Note: WOS 2012-001 is located in Chapter 37 of this Title.

Chapter 24. Tribal Notary Public

6.2401 SHORT TITLE

This Statute shall be entitled “Waganakising Odawak Tribal Notary Public Statute” and cited as the Tribal Notary Statute. It repeals and replaces WOS 2008-005.

(Source: WOS 2023-013, October 10, 2023, Section I)

6.2402 PURPOSE

This Statute shall foster ethical conduct among Notaries as Notaries Publics play a vital role in assuring the integrity of documents essential to commercial and legal transactions and serve to promote and protect the public interest from fraud.

(Source: WOS 2023-013, October 10, 2023, Section II)

6.2403 DEFINITIONS

A. “Acknowledgment” means a notarial act in which an individual at a single time and place:

- 1.** Appears in person before the Notary and presents a document;
- 2.** Is personally known to the Notary or identified by the Notary through satisfactory evidence; and
- 3.** Indicates to the Notary that the signature on the document was voluntarily affixed by the individual for the purposes stated within the document and, if applicable, that the individual had due authority to sign in a particular representative capacity.

B. “Affirmation” means a notarial act, or part thereof, in which an individual at a single time and place:

1. Appears in person before the Notary;
 2. Is personally known to the Notary or identified by the Notary through satisfactory evidence; and
 3. Makes a vow of truthfulness or fidelity on penalty of perjury, based on personal honor and using any form of the word “swear.”
- C.** “Commission” means both to empower to perform notarial acts and the written evidence of authority to perform those acts.
- D.** “Copy Certification” means a notarial act in which a Notary:
1. Is presented with a document that is neither a vital record, a public record, nor publicly recordable;
 2. Copies or supervises the copying of the document using a photographic or electronic copying process;
 3. Compares the document to the copy; and
 4. Determines that the copy is accurate and complete.
- E.** “Credible Witness” means an honest, reliable, and impartial person who personally knows an individual appearing before a Notary and takes an affirmation from the Notary to vouch for that individual’s identity.
- F.** “Enrollment Office” means the Tribal agency makes application determinations, and issues, maintains and revokes the Notary Commissions.
- G.** “Jurat” means a notarial act in which an individual at a single time and place:

1. Appears in person before the Notary and presents a document;
2. Is personally known to the Notary or identified by the Notary through satisfactory evidence;
3. Signs the document in the presence of the Notary; and
4. Takes an affirmation from the Notary vouching for the truthfulness or accuracy of the signed document.

H. “Nolo contendere” means does not contest, or fight the allegation of an offense or charges.

I. “Notarial Act” and “Notarization” means any act that a Notary is empowered to perform under this statute.

J. “Notarial Certificate” and “Certificate” means the part of, or attachment to, a notarized document that is completed by the Notary, bears the Notary’s signature and seal, and states the facts attested by the Notary in a particular notarization.

K. “Notary Public” and “Notary” means any person commissioned to perform official acts under this statute.

L. “Official Misconduct” means:

1. A Notary’s performance of any act prohibited, or failure to perform any act mandated, by this statute or by any other law in connection with a notarial act by the Notary; or
2. A Notary’s performance of an official act in a manner found by the Enrollment Office and/or the Tribal Court to be negligent or against the public interest.

M. “Personal Appearance” or “Appears in Person before the Notary” means that the principal and the Notary are physically close enough to see, hear, communicate with, and give identification documents to each other.

N. “Personal Knowledge of Identity” and “Personally Knows” means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.

O. “Principal” means:

1. A person whose signature is notarized; or
2. A person, other than a credible witness, taking an affirmation from the Notary.

P. “Regular place of work or business” means a stationary office or workspace where one spends all or some of one’s working or business hours.

Q. “Reservation” means the areas referenced in Public Law 103-324, 25 U.S.C. Section 1300k-2(b)(2)(A) as the boundaries of the reservation for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat. 621, plus any lands outside of those boundaries that 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.

R. “Satisfactory evidence of identity” means identification of an individual based on:

1. At least one current document issued by a federal, state, or tribal government bearing the photographic image of the individual’s face and signature; or
2. The affirmation of one credible witness unaffected by the document or transaction who is personally known to the Notary and who personally knows the individual, or of 2 credible witnesses unaffected by the document or transaction who each personally knows the individual and shows to the notary documentary identification as described in Subparagraph (1) of this section.

S. “Seal” means a device for affixing on a paper document an image containing a Notary’s name, jurisdiction, commission expiration date, and other information related to the Notary’s commission.

T. “Signature witnessing” means a notarial act in which an individual at a single time and place:

1. Appears in person before the Notary and presents a document;
2. Is personally known to the Notary or identified by the Notary through satisfactory evidence; and
3. Signs the document in the presence of the Notary.

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

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

W. “Verification of fact” means a notarial act in which a Notary reviews public or vital records to ascertain or confirm any of the following facts regarding a person:

1. Date of birth or death;
2. Name of parent, offspring, or sibling;
3. Date of marriage or divorce;
4. Name of marital partner; or
5. Tribal citizenship

(Source: WOS 2023-013, October 10, 2023, Section III)

6.2404 COMMISSIONING OF NOTARY PUBLIC

A. Qualifications

The Enrollment Office shall issue a notary commission to any qualified person who submits an application in accordance with this statute. A person qualified for a notary commission shall:

- 1.** Be at least 18 years of age;
- 2.** Reside or have a regular place of work or business within the boundaries of the Reservation;
- 3.** Be a citizen of the Little Traverse Bay Bands of Odawa Indians or another Federally Recognized Tribe or an employee of the Little Traverse Bay Bands of Odawa Indians;
- 4.** Have legal residency in the United States;
- 5.** Be able to read and write;
- 6.** Consent to and/or submit documentation of a full criminal background check upon request of the Enrollment Office.

B. Application Materials

Every application for a notary commission shall be made on forms determined by the Enrollment Office that shall include:

- 1.** The applicant's name and date of birth;
- 2.** The applicant's residence address and telephone number;

3. The applicant's business address and telephone number, the business mailing address, if different, and the name of the applicant's employer, if any;
4. A declaration that the applicant is a citizen of the Little Traverse Bay Bands of Odawa Indians or another Federally Recognized Tribe or is an Employee of the Little Traverse Bay Bands of Odawa Indians and documentation of proof;
5. A declaration that the applicant is a citizen of the United States or proof of the applicant's legal residency in this country;
6. A declaration that the applicant can read and write;
7. All issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission, professional license, or public office involving the applicant in this or any other tribe, state or nation;
8. All criminal convictions of the applicant, including any pleas of admission or nolo contendere, in this or any other tribe, state or nation;
9. All claims pending or disposed against a notary bond held by the applicant, and all civil findings or admissions of fault or liability regarding the applicant's activities as a Notary, in this or any other tribe, state or nation;
10. An application fee;
11. Such other information as the Enrollment Office may deem appropriate.

C. Application Denial

The Enrollment Office shall deny an application based on any of the following:

1. Submission of an official application containing material misstatement or omission of fact;
2. The applicant's conviction or plea of admission or nolo contendere for a felony or any crime involving dishonesty or moral turpitude, but in no case may a commission be issued to the applicant within 5 years after such conviction or plea;
3. A finding or admission of liability against the applicant in a civil lawsuit based on the applicant's deceit;
4. Revocation, suspension, restriction, or denial of a notarial commission or professional license by this or any other tribe, state or nation, but in no case may a commission be issued to the applicant within 5 years after such disciplinary action; or
5. An official finding that the applicant had engaged in official misconduct, whether or not disciplinary action resulted.

D. Application Appeal

Denial of an application may be appealed by filing in proper form with the Tribal Court within thirty (30) days after denial, except that an applicant may not appeal when the Enrollment Office within 5 years prior to the application has:

1. Denied or revoked for disciplinary reasons any previous application, commission, or license of the applicant; or
2. Made a finding that grounds for revocation of the applicant's commission existed.

E. Jurisdiction and Term

A person commissioned as a Notary may perform notarial acts within the territorial jurisdiction

of the Little Traverse Bay Bands of Odawa Indians for a term of six (6) years, unless the commission is earlier revoked or the Notary resigns pursuant to this statute.

F. Bond

1. A notary commission shall not be issued until an oath of office and ten thousand dollars (\$10,000) bond have been filed with the Enrollment Office. The bond shall be executed by a licensed surety, for a term of six (6) years commencing on the commission's effective date and terminating on its expiration date.
2. The surety for a notary bond shall report all claims against the bond to the Enrollment Office.
3. If a notary bond has been exhausted by claims paid out by the surety, the Enrollment Office shall suspend the Notary's commission until a new bond is obtained by the Notary, and the Notary's fitness to serve the remainder of the commission term is determined by the Enrollment Office.

G. Commissioning Documents

Upon issuing a notary commission, the Enrollment Office shall provide to the Notary a commission document stating the commission serial number and starting and ending dates, and a Certificate of Authorization to Purchase a Notary Seal stating the commission serial number.

H. Re-Commissioning

A current or former Notary applying for a new notary commission shall submit a new completed application and comply anew with the requirements of this statute.

I. Notarized Declaration

Every applicant for a notary commission shall sign the following declaration in the presence of a Notary of the Enrollment Office or another Notary of this Tribe:

Declaration of Applicant

I, _____ (name of applicant), solemnly swear under penalty of perjury that the personal information in this application is true, complete, and correct; that I understand the official duties and responsibilities of a Notary Public of the Little Traverse Bay Bands of Odawa Indians, as explained in the course of instruction I have taken; and that I will perform, to the best of my ability, all notarial acts in accordance with the law.

_____ (signature of applicant)

(notarial certificate)

J. Application Fee

Every applicant for a notary commission shall pay to the Little Traverse Bay Bands of Odawa Indians a nonrefundable application fee of ten dollars (\$10.00).

K. Confidentiality of Application

Information required by this section shall be used by the Enrollment Office staff only for the purpose of performing official duties under this Statute and shall not be disclosed to any person other than a government agent acting in an official capacity and duly authorized to obtain such information, a person authorized by court order, or to the applicant or such individual's duly authorized agent.

(Source: WOS 2023-013, October 10, 2023, Section IV)

6.2405 POWERS AND LIMITATIONS OF NOTARY PUBLIC

A. Powers

A Notary is empowered to perform the following notarial acts:

1. Acknowledgments;
2. Oaths and affirmations;

3. Jurats;
4. Signature witnessing;
5. Copy certifications;
6. Verifications of fact;
7. Performance of Marriage Ceremonies, for a fee not to exceed \$300.00; and
8. Any other acts so authorized by the law of this Tribe.

B. Prohibitions

A Notary shall not perform a notarial act if the principal:

1. Is not in the Notary's presence at the time of notarization;
2. Is not personally known to the Notary or identified by the Notary through satisfactory evidence;
3. Shows a demeanor which causes the Notary to have a compelling doubt about whether the principal knows the consequences of the transaction requiring a notarial act; or
4. In the Notary's judgment, is not acting of his or her own free will.

C. Signature by Mark

A Notary may certify the affixation of a signature by mark on a document presented for notarization if:

1. The mark is affixed in the presence of the Notary and of two (2) witnesses unaffected by the document;
2. Both witnesses sign their own names beside the mark;
3. The Notary writes below the mark: “Mark affixed by (name of signer by mark) in presence of (names and addresses of witnesses) and undersigned notary”; and
4. The Notary notarizes the signature by mark through an acknowledgment, jurat, or signature witnessing.

D. Signature by Third Party

A Notary may sign the name of a person physically unable to sign or make a mark on a document presented for notarization if:

1. The person directs the Notary to do so in the presence of two (2) witnesses unaffected by the document;
2. The Notary signs the person’s name in the presence of the person and the witnesses;
3. Both witnesses sign their own names beside the signature;
4. The Notary writes below the signature: “Signature affixed by notary in the presence of (names and addresses of person and two (2) witnesses)”; and
5. The Notary notarizes the signature through an acknowledgment, jurat, or signature witnessing.

E. Disqualifications

A Notary is disqualified from performing a notarial act if the Notary:

1. Is a party to or named in the document that is to be notarized or the transaction to which the document pertains;
2. Has a direct financial or beneficial interest, other than the notary public fee, in the transaction; or
3. Is a spouse, domestic partner, ancestor, descendant, or sibling of the principal, including in-law, step, or half relatives.

F. Refusal to Notarize

1. A Notary shall not refuse to perform a notarial act based on race, advanced age, gender, sexual orientation, religion, national origin, health or disability, or status as a non-client or non-customer of the Notary or the Notary's employer.
2. A Notary shall perform any notarial act described in this Statute unless:
 - a. The Notary knows or has good reason to believe that the notarial act or the associated transaction is unlawful;
 - b. The act is prohibited under this statute; or
 - c. The number of notarial acts requested practicably precludes completion of all acts at once, in which case the Notary shall arrange for later completion of the remaining acts.
3. A Notary may but is not required to perform a notarial act outside the Notary's regular workplace or business hours.

G. Avoidance of Influence

1. A Notary shall not influence a person either to enter into or avoid a transaction involving a notarial act by the Notary, except that the Notary may advise against a transaction if the Notary knows or has good reason to believe that the notarial act or the associated transaction is unlawful.
2. A Notary has neither the duty nor the authority to investigate, ascertain, or attest the lawfulness, propriety, accuracy, or truthfulness of a document or transaction involving a notarial act.

H. False Certificate

1. A Notary shall not execute a certificate containing information known or believed by the Notary to be false.
2. A Notary shall not affix an official signature or seal on a notarial certificate that is incomplete.
3. A Notary shall not provide or send a signed or sealed notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the Notary's presence.

I. Improper Documents

A Notary shall not notarize a signature:

1. On a blank or incomplete document; or
2. On a document without notarial certificate wording.

A Notary shall neither certify nor authenticate a photograph.

J. Intent to Deceive

A Notary shall not perform any official action with the intent to deceive or defraud.

K. Testimonials

A Notary shall not use the official notary title or seal to endorse, promote, denounce, or oppose any product, service, contest, candidate, or other offering to make it appear as a tribal government endorsement.

L. Unauthorized Practice of Law

1. If notarial certificate wording is not provided or indicated for a document, a non-attorney notary shall not determine the type of notarial act or certificate to be used.
2. A non-attorney notary shall not assist another person in drafting, completing, selecting, or understanding a document or transaction requiring a notarial act.
3. This section does not preclude a Notary who is duly qualified, trained, or experienced in a particular industry or professional field from selecting, drafting, completing, or advising on a document or certificate related to a matter within that industry or field.
4. A Notary shall not claim to have powers, qualifications, rights, or privileges that the office of notary does not provide, including the authority to give legal advice.

(Source: WOS 2023-013, October 10, 2023, Section V)

6.2406 FEES OF NOTARY PUBLIC

A. Imposition and Waiver of Fees

1. For performing a notarial act, a Notary may charge the maximum fee specified in this Statute, charge less than the maximum fee, or waive the fee.

2. A Notary shall not discriminate in setting the fee of a notarial act but may waive or reduce fees for humanitarian or charitable reasons.

B. Fees for Notarial Acts.

1. The maximum fee that may be charged by a Notary for notarial acts is ten dollars (\$10.00) for performing a notarial act. Additional fees for travel may be negotiated between the Notary and the client prior to the commencement of the travel.
2. These notarial acts include:
 - a. For acknowledgments, per signature;
 - b. For oaths or affirmations without a signature, per person;
 - c. For jurats, per signature;
 - d. For signature witnessing, per signature;
 - e. For certified copies, per document; and
 - f. For verifications of fact, per certificate.

C. Payment Prior to Act

A Notary may require payment of any fees prior to performance of a notarial act and any fees paid to a Notary prior to performance of a notarial act are non-refundable if:

1. The act was completed; or

2. In the case of travel fees, the act was not completed for reasons stated in Section V(F) after the Notary had traveled to meet the principal.

D. Fees of Employee Notary

1. An employer may prohibit an employee who is a Notary from charging for notarial acts performed on the employer's time, provided that the Notary shall not refuse to perform a notarial act based on the principal's race, advanced age, gender, sexual orientation, religion, national origin, health or disability, or status as a non-client or non-customer of the Notary or the Notary's employer.
2. A private employer shall not require an employee who is a Notary to surrender or share fees charged for any notarial acts.
3. A governmental employer who has absorbed an employee's costs in becoming or operating as a Notary shall require any fees collected for notarial acts performed on the employer's time either to be waived or surrendered to the employer to support public programs.

E. Notice of Fees

Notaries who charge for their notarial services shall conspicuously display in their places of business, or present to each principal outside their places of business, a schedule of fees for notarial acts. No part of any notarial fee schedule shall be printed in smaller than ten (10) point type.

(Source: WOS 2023-013, October 10, 2023, Section VI)

6.2407 SIGNATURE AND SEAL OF NOTARY PUBLIC

A. Official Signature

In notarizing a paper document, a Notary shall:

1. Sign by hand on the notarial certificate exactly and only the name indicated on the notary's commission;
2. Not sign using a facsimile stamp or an electronic or other printing method; and
3. Affix the official signature only at the time the notarial act is performed.

B. Official Seal

1. A Notary shall keep an official seal that is the exclusive property of the Notary.
2. The seal shall not be possessed or used by any other person, nor surrendered to an employer upon termination of employment.
3. An image of the official seal shall be affixed by the Notary on every paper document notarized.
4. An image of the seal shall be affixed only at the time the notarial act is performed.
5. When not in use, the seal shall be kept secure and accessible only to the Notary.
6. Any seal image affixed by an adhesive label shall bear a preprinted sequential number which shall be recorded in the journal of notarial acts for its respective notarization.
7. Within ten (10) days after the seal of a notary is stolen, lost, damaged, or otherwise rendered incapable of affixing a legible image, the Notary, after informing the appropriate law enforcement agency in the case of theft or vandalism, shall notify the Enrollment Office and also provide a copy or number of any pertinent police report. Upon receipt of such notice the Enrollment Office shall issue to the Notary a new Certificate of Authorization to Purchase a Notary

Seal.

8. As soon as reasonably practicable after resignation, revocation, or expiration of a notary commission, or death of the notary, the seal shall be destroyed or defaced so that it may not be misused.

C. Seal Image

Near the Notary’s official signature on the notarial certificate of a paper document, the Notary shall affix a sharp, legible, permanent, and photographically reproducible image of the official seal that shall include the following elements:

1. The Notary’s name exactly as indicated on the commission;
2. The serial number of the Notary’s commission;
3. The words “Notary Public” and “Tribe of Little Traverse Bay Bands of Odawa Indians” and “My commission expires (commission expiration date)”; and
4. An embossed seal impression that is not photographically reproducible may be used in addition to but not in lieu of the seal.

D. Obtaining and Providing a Seal

In order to sell or manufacture notary seals, a vendor or manufacturer shall apply for a permit from the Enrollment Office, who shall charge a fee of fifty dollars, (\$50.00) for issuance of this permit. A vendor or manufacturer shall not provide a notary seal to a purchaser claiming to be a notary, unless the purchaser presents a photocopy of his or her notary commission and a Certificate of Authorization to Purchase a Notary Seal from the Enrollment Office, provided:

1. In the case of a purchaser appearing in person, the vendor or manufacturer identifies this individual as the person named in the commission and the Certificate of Authorization, through either personal knowledge or satisfactory

evidence of identity.

2. In the case of a purchaser ordering a seal by mail or delivery service, the vendor or manufacturer confirms the business or residency mailing address through the Enrollment Office.
3. A vendor or manufacturer shall mail or ship a notary seal only to a mailing address confirmed through the Enrollment Office.
4. For each Certificate of Authorization to Purchase a Notary Seal, a vendor or manufacturer shall make or sell one and only one seal, plus, if requested by the person presenting the Certificate, one and only one embossing seal.
5. After manufacturing or providing a notary seal or seals, the vendor shall affix an image of all seals on the Certificate of Authorization to Purchase a Notary Seal and send the completed Certificate to the Enrollment Office, retaining a copy of the Certificate and the commission for six (6) years.
6. A Notary obtaining a seal or seals as a result of a name or business address change shall present a copy of the Confirmation of Notary's Name or Address Change from the Enrollment Office.
7. A vendor or manufacturer who fails to comply with this section may be found liable through Tribal Court and may be fined. Such liability shall not preclude the civil liability of the vendor to parties injured by the vendor's failure to comply with this section.

(Source: WOS 2023-013, October 10, 2023, Section VII)

6.2408 CERTIFICATES FOR NOTARIAL ACTS

A. General Acknowledgment

A Notary shall use a certificate in substantially the following form in notarizing the signature or mark of persons acknowledging for themselves or as partners, corporate officers, attorneys in fact, or in other representative capacities:

Tribe of the Little Traverse Bay Bands of Odawa Indians

On this _____ day of _____, 20____, before me, the undersigned Notary, personally appeared _____ (name of document signer), (personally known to me) (proved to me through identification documents allowed by law, which were _____,) (proved to me on the oath or affirmation of _____, who is personally known to me and stated to me that (he)(she) personally know the document signer and is unaffected by the document,) (proved to me on the oath or affirmation of _____ and _____, whose identities have been proven to me through documents allowed by law and who have stated to me that they personally know the document signer and are unaffected by the document,) to be the person whose name is signed on the preceding or attached document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose(.

(as partner for _____, a partnership.)

(as _____ for _____, a corporation.)

(as attorney in fact for _____, the principal.)

(as _____ for _____, (a)(the) _____.)

(official signature and seal of notary)

B. Jurat

A Notary shall use a jurat certificate in substantially the following form in notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

Tribe of the Little Traverse Bay Bands of Odawa Indians

On this _____ day of _____, 20____, before me, the undersigned Notary, personally appeared _____ (name of document signer), (personally known to me) (proved to me through identification documents allowed by law, which were _____,) (proved to me on the oath or affirmation of _____, who is personally known to me and stated to me that (he)(she) personally knows the document signer and is unaffected by the

document,) (proved to me on the oath or affirmation of _____ and _____, whose identities have been proven to me through documents allowed by law and who have stated to me that they personally know the document signer and are unaffected by the document,) to be the person who signed the preceding or attached document in my presence and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of (his)(her) knowledge and belief.

(official signature and seal of notary)

C. Signature Witnessing

A Notary shall use a certificate in substantially the following form in notarizing a signature or mark to confirm that it was affixed in the notary’s presence without administration of an oath or affirmation.

Tribe of the Little Traverse Bay Bands of Odawa Indians

On this _____ day of _____, 20___, before me, the undersigned Notary, personally appeared _____ (name of document signer), (personally known to me) (proved to me through identification documents allowed by law, which were _____,) (proved to me on the oath or affirmation of _____, who is personally known to me and stated to me that (he)(she) personally knows the document signer and is unaffected by the document,) (proved to me on the oath or affirmation of _____ and _____, whose identities have been proven to me through documents allowed by law and who have stated to me that they personally know the document signer and are unaffected by the document,) to be the person who signed the preceding or attached document in my presence.

(official signature and seal of notary)

D. Signer by Mark and Person Unable to Sign

On paper documents, any of the above-mentioned certificates may be used for signers by mark or persons physically unable to sign or make a mark if:

1. For a signer by mark, the Notary and two (2) witnesses unaffected by the document observe the affixation of the mark, both witnesses sign their own names beside the mark, and the Notary writes below the mark: “Mark affixed by (name of signer by mark) in presence of (names and addresses of two (2) witnesses) and undersigned notary.”

2. For a person physically unable to sign or make a mark, the person directs the Notary to sign on his or her behalf in the presence of the person and two (2) witnesses unaffected by the document, both witnesses sign their own names beside the signature, and the Notary writes below the signature: “Signature affixed by notary in presence of (names and addresses of person and two (2) witnesses).”

E. Certified Copy

A Notary shall use a certificate in substantially the following form in notarizing a certified copy:

Tribe of _____

On this _____ day of _____, 20____, I certify that the (preceding) (following)(attached) document is a true, exact, complete, and unaltered copy made by me of _____ (description of document), (presented to me by the document’s custodian, _____,) (held in my custody as a notarial record,) and that, to the best of my knowledge, the copied document is neither a vital record, a public record nor a publicly recordable document, certified copies of which may be available from an official source other than a Notary.

 (official signature and seal of notary)

F. Verification of Fact

A Notary shall use a certificate in substantially the following form in verifying a fact:

Tribe of the Little Traverse Bay Bands of Odawa Indians

On this _____ day of _____, 20____, I certify that I have reviewed the following record(s),

- (a) _____,
- (b) _____,
- (c) _____,
- (d) _____,

at the following offices, respectively,

- (a) _____,
- (b) _____,
- (c) _____,
- (d) _____,

or upon the records' presentation to me by _____,

and hereby verify the following facts as stated in these records:

- (a) _____,
- (b) _____,
- (c) _____,
- (d) _____.

(official signature and seal of notary)]

(Source: WOS 2023-013, October 10, 2023, Section VIII)

6.2409 EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT

A. Forms of Evidence

On a notarized document sent to another state or nation, evidence of the authenticity of the official seal and signature of a Notary of this Tribe, if required, shall be in the form of a certificate of authority from the Enrollment Office.

B. Certificate of Authority

A certificate of authority evidencing the authenticity of the official seal and signature of a Notary of this Tribe shall be substantially in the following form:

Certificate of Authority for a Notarial Act

I, _____ (name, title, jurisdiction of authenticating official), certify that _____ (name of notary), the person named in the seal and signature on the attached document, was a Notary Public for the Tribe of the Little Traverse Bay Bands of Odawa Indians and authorized to act as such at the time of the document's notarization. To verify this Certificate of Authority for a Notarial Act, I have affixed below my signature and seal of office this _____ day of _____, 20____. (Signature and seal of commissioning official)

C. Fees

The Enrollment Office may charge a fee of ten dollars (\$10) for issuing a certificate of authority.

(Source: WOS 2023-013, October 10, 2023, Section IX)

6.2410 CHANGES OF STATUS OF NOTARY PUBLIC

A. Change of Address

Within ten (10) days after the change of a Notary's residence, business, or mailing address, the Notary shall send to the Enrollment Office a signed notice of the change, giving both old and new addresses and shall not notarize until a new seal bearing the new business address has been obtained; and the surety for the Notary's bond has been informed in writing.

B. Change of Name

Within ten (10) days after the change of a Notary's name by court order or marriage, the Notary shall send to the Enrollment Office a signed notice of the change, giving both former and new names, with a copy of any official authorization for such change and shall not notarize until a new seal bearing the new name has been obtained; and the surety for the Notary's bond has been informed in writing.

C. Resignation

A Notary who resigns his or her commission shall send to the Enrollment Office a signed notice indicating the effective date of resignation.

1. Notaries who cease to reside in or to maintain a regular place of work or business within the Reservation of the shall resign their commissions.
2. Notaries who are no longer a Tribal Citizens of the LTBB or another Federally Recognized Tribe or an employee of the LTBB shall resign their commissions.
3. Notaries who are no longer a legal resident of the United States or who become permanently unable to perform their notarial duties shall resign their commissions.

D. Disposition of Seal

When a Notary commission expires or is resigned or revoked, the Notary shall as soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused.

E. Death of Notary

If a Notary dies during the term of commission, the Notary's personal representative shall:

1. Notify the Enrollment Office of the death in writing;
2. As soon as reasonably practicable, destroy or deface all notary seals so that they may not be misused.

(Source: WOS 2023-013, October 10, 2023, Section X)

6.2411 LIABILITY, SANCTIONS, AND REMEDIES FOR IMPROPER ACTS

A. Liability of Notary, Surety, and Employer

1. A Notary is liable to any person for all damages proximately caused that person by the Notary's negligence, intentional violation of law, or official misconduct in

relation to a notarization.

2. A surety for a Notary's bond is liable to any person for damages proximately caused that person by the Notary's negligence, intentional violation of law, or official misconduct in relation to a notarization during the bond term, but this liability may not exceed the dollar amount of the bond or of any remaining bond funds that have not been disbursed to other claimants. Regardless of the number of claimants against the bond or the number of notarial acts cited in the claims, a surety's aggregate liability shall not exceed the dollar amount of the bond.
3. An employer of a Notary is liable to any person for all damages proximately caused that person by the Notary's negligence, intentional violation of law, or official misconduct in performing a notarization during the course of employment, if the employer directed, expected, encouraged, approved, or tolerated the Notary's negligence, violation of law, or official misconduct either in the particular transaction or, impliedly, by the employer's previous action in at least one similar transaction involving any Notary employed by the employer.
4. An employer of a Notary is liable to the Notary for all damages recovered from the Notary as a result of any violation of law by the Notary that was coerced by threat of the employer, if the threat, such as of demotion or dismissal, was made in reference to the particular notarization or, impliedly, by the employer's previous action in at least one similar transaction involving any Notary employed by the employer. In addition, the employer is liable to the Notary for damages caused the Notary by demotion, dismissal, or other action resulting from the Notary's refusal to engage in a violation of law or official misconduct.
5. Notwithstanding any other provision in this Statute, for the purposes of this section "negligence" shall not include any good-faith determination made by the Notary.

B. Proximate Cause

Recovery of damages against a Notary, surety, or employer does not require that the Notary's negligence, violation of law, or official misconduct be either the sole or principal proximate cause of the damages.

C. Revocation

- 1.** The Enrollment Office shall revoke a Notary's commission for:
 - a.** Failure to maintain a residence or a regular place of work or business within the Reservation;
 - b.** Failure to maintain status as a legal resident of the United States;
 - c.** Failure to maintain status as a Tribal Citizen of the LTBB or another Federally Recognized Tribe or an employee of LTBB;
 - d.** A conviction of a felony or of a substantially corresponding violation of another tribe or state on the date that the person's felony conviction is entered.
 - e.** A conviction of two (2) or more misdemeanor offenses involving a violation of this act within a 12-month period while commissioned, or of three (3) or more misdemeanor offenses involving a violation of this act within a five (5)-year period.
 - f.** A sentence of imprisonment in a correctional facility or jail in this or any other tribal, state or federal correctional facility.
 - g.** Prior to revocation of a Notary's commission, the Enrollment Office shall inform the Notary of the basis for the revocation and that the revocation takes effect on a particular date unless a proper appeal is filed with the Tribal Court before that date.

2. Resignation or expiration of a notary commission does not terminate or preclude an investigation into the Notary's conduct by the Enrollment Office, who may pursue the investigation to a conclusion, whereupon it shall be made a matter of public record whether or not the finding would have been grounds for revocation.

D. Warning or Injunction for Misconduct

The Enrollment Office may deliver a written Official Warning to Cease Misconduct to any Notary whose actions are judged to be official misconduct or may seek a court injunction to prevent a person from violating any provision of this Statute.

E. Publication of Sanctions and Remedial Actions

The Enrollment Office shall regularly publish a list of persons whose notary commissions have been revoked by the Enrollment Office or Tribal Court or whose actions as a Notary were the subject of a court injunction or Official Warning to Cease Misconduct on the Tribal web-site and newsletter.

F. Potential Civil Infractions

In performing a notarial act, a Notary is liable of a civil infraction upon finding by the Little Traverse Bay Bands of Odawa Indians Tribal Court that may include a fine for knowingly:

1. Failing to require the presence of a principal at the time of the notarial act;
2. Failing to identify a principal through personal knowledge or satisfactory evidence;
3. Executing a false notarial certificate;
4. Performing or failing to perform any other act prohibited or mandated respectively by this statute; or
5. Performing a notarial act after his or her commission is revoked.

G. Additional Remedies and Sanctions Not Precluded

The remedies and sanctions of this Statute do not preclude other remedies and sanctions provided by law.

H. Violations by Non-Notary

A person found liable for a civil infraction under this section by the Little Traverse Bay Bands of Odawa Indians Tribal Court may be fined.

1. Impersonation

Any person not a Notary who knowingly acts as or otherwise impersonates a Notary.

2. Wrongful Possession

Any person, who knowingly obtains, conceals, defaces, or destroys the seal or official records of a Notary.

3. Improper Influence

Any person who knowingly solicits, coerces, or in any way influences a Notary to commit official misconduct.

I. Additional Sanctions Not Precluded

The sanctions of this chapter do not preclude other sanctions and remedies provided by law.

(Source: WOS 2023-013, October 10, 2023, Section XI)

6.2412 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 2023-013, October 10, 2023, Section XII)

6.2413 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 2023-013, October 10, 2023, Section XIII)

Chapter 25. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.901

Chapter 26. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1001

Chapter 27. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1101

Chapter 28. Reserved

Codification Note: The chapter previously located here has been relocated to Title VIII at 8.701

Chapter 29. Asset Disposition

6.2901 PURPOSE

The purpose of this Statute is to establish the law governing the disposition of Tribal assets in accordance with the Constitution of the Little Traverse Bay Bands of Odawa Indians. This statute repeals and replaces Waganakising Odawak Statute 2012-015.

(Source: WOS 2023-009, October 6, 2023, Section I)

6.2902 APPLICABILITY

This statute applies to the disposal of assets owned by the Little Traverse Bay Bands of Odawa Indians, including Tribal assets leased or assigned to a corporation or entity established by the Tribe under the Waganakising Odawak Tribal Code of Law.

(Source: WOS 2023-009, October 6, 2023, Section II)

6.2903 DEFINITIONS

- A.** “*Capital Asset*” means tangible property such as equipment that cannot easily be converted into cash and is usually held for a long period of time.
- B.** “*Competitive Bidding*” means a transparent process for disposal of an asset and may include soliciting bids, competitive negotiation using a request for proposals, fixed pricing, public auctions, on-line auctions or sealed bids.
- C.** “*Disposal*” means the relinquishment of ownership of an asset by sale, exchange, transfer, abandonment, demolition, donation or similar conclusive manner.
- D.** “*Donation*” means the relinquishment of ownership of an asset for the benefit of Tribal Citizens in the areas of social, educational, cultural and health activities.
- E.** “*Fixture*” means personal property that is attached to land or a building and that is regarded as an irremovable part of the real property.

F. “*Intangible Asset*” means something of value that cannot be physically touched such as a brand, franchise, trademark or patent.

G. “*Real Property*” means land, buildings and fixtures, as well as intangible interests in land such as an easement.

H. “*Surplus property*” means tangible personal property, including minor equipment, office furniture, computer equipment, vehicles and other items determined to be obsolete, over stocked or no longer needed.

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

(Source: WOS 2023-009, October 6, 2023, Section III)

6.2904 DISPOSAL OF REAL PROPERTY

Disposal of the following shall require prior approval by Tribal Council:

A. Land, in accordance with Constitutional requirements.

B. Buildings and fixtures, unless disposal is authorized by a lease, assignment or similar written document approved by Tribal Council.

(Source: WOS 2023-009, October 6, 2023, Section IV)

6.2905 DISPOSAL OF CAPITAL ASSETS

A. Capital assets retired from service shall be disposed of in the most efficient and cost-effective manner possible.

B. Retired capital assets shall be disposed of in a manner that is environmentally responsible.

C. Retired capital assets with a book value greater than \$10,000 shall be disposed of by competitive bidding. All other retired capital assets shall be designated as surplus.

(Source: WOS 2023-009, October 6, 2023, Section V)

6.2906 DISPOSAL OF TANGIBLE PROPERTY

- A. Tangible personal property retired from service shall be designated as surplus.
- B. Any surplus property shall be disposed of without warranty.
- C. Surplus property shall be disposed of in whatever lawful manner provides maximum value to the Tribe.
- D. Surplus property shall be disposed of in a manner that is environmentally responsible.
- E. Information technology and communication equipment shall have all data and software removed from the equipment prior to disposal.

(Source: WOS 2023-009, October 6, 2023, Section VI)

6.2907 DISPOSAL OF INTANGIBLE ASSETS

Disposal of intangible property shall require prior approval by Tribal Council.

(Source: WOS 2023-009, October 6, 2023, Section VII)

6.2908 FIRST REFUSAL

All retired capital assets and surplus tangible property shall be offered to governmental departments and enterprises before disposal by any other method.

(Source: WOS 2023-009, October 6, 2023, Section VIII)

6.2909 REGULATIONS

The Executive shall develop regulations for the implementation of this statute pursuant to the process set forth in the Administrative Procedures Act.

(Source: WOS 2023-009, October 6, 2023, Section IX)

6.2910 RECORDS

All Tribal departments, corporations and other entities shall maintain accurate asset-disposition records and make those records available to Tribal Council upon request.

(Source: WOS 2023-009, October 6, 2023, Section X)

6.2911 SAVINGS CLAUSE

If 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 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 2023-009, October 6, 2023, Section XI)

6.2912 EFFECTIVE DATE

This statute shall be 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 the date on which Tribal Council overrides the veto.

(Source: WOS 2023-009, October 6, 2023, Section XII)

Chapter 30. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1201

Chapter 31. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1301

Chapter 32. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title IX at 9.1301

Chapter 33. Tribal Prosecutor

6.3301 SHORT TITLE

This Statute may be cited as the “Tribal Prosecutor Statute”, and repeals and replaces any prior Statute or resolution or amendment to same.

(Source: WOS 2011-006, March 22, 2011, Section I)

6.3302 PURPOSE

The purpose of this Statute is to establish Tribal standards and ethics for the prosecution of crimes and the representation of the Tribe in Child Welfare matters.

- A. Little Traverse Bay Bands of Odawa Indians finds protecting the Prosecutor from influence is necessary for the portion of the Prosecutors duties of conducting criminal investigations and prosecutions.
- B. Little Traverse Bay Bands of Odawa Indians finds that it is paramount in exercising its rights to promote the efforts of law enforcement to protect the community, conduct investigations and to apprehend those who commit crimes through the authority of the Office of the Prosecutor.
- C. Little Traverse Bay Bands of Odawa Indians find that it is paramount in exercising its rights to prescribe the best interest of the Tribe by promoting the stability and security of it families.

(Source: WOS 2011-006, March 22, 2011, Section II)

6.3303 DEFINITIONS

- A. “Best Interests of the Child” means the sum total of the following factors to be considered, evaluated, and determined by the Court:
 - 1. The love, affection, and other emotional ties existing between the parties involved

and the child;

2. The capacity and disposition of the parties involved to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any;
3. The capacity and disposition of the parties involved to provide the child with food, clothing, medical care or other remedial care recognized and permitted under the laws of the Tribe in place of medical care, and other material needs;
4. The length of time the child has lived in a stable, satisfactory environment, and the desirability of maintaining continuity;
5. The permanence, as a family unit, of the existing or proposed custodial home or homes;
6. The moral fitness of the parties involved;
7. The mental and physical health of the parties involved;
8. The home, school, and community record of the child;
9. The reasonable preference of the child, if the Court considers the child to be of sufficient age to express preference;
10. The willingness and ability of each of the parties to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent or the child and the parents;
11. Domestic violence, regardless of whether the violence was directed against or witnessed by the child; and
12. Any other factor considered by the Court to be relevant.

B. “Best Interest of the Tribe” means the Tribe’s interest in protecting the best interests of

Indian children and to promote the stability and security of Indian tribes and families.

- C. “Chief of Police” means the Chief of the Little Traverse Bay Bands of Odawa Indians Law Enforcement;
- D. “Indian” means a person who a member of a federally recognized Indian Tribe;
- E. “Indian Tribe” means any federally recognized Tribe;
- F. “Prosecutor” means the person identified within the Tribal Constitution to represent the Tribe in child welfare matters and violations of Tribal law, Article X (A) and such assistant Prosecutors.
- G. “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).
- H. “Tribal Child/Children” means a child who is enrolled Citizen of the Little Traverse Bay Bands of Odawa Indian or eligible for enrollment;
- I. “Tribal Constitution” means Constitution of the Little Traverse Bay Bands of Odawa Indians as adopted on February 2, 2005.
- J. “Tribal Council” means the Tribal Council of the Little Traverse Bay Bands of Odawa Indians.
- K. “Tribal Court” means the Little Traverse Bay Bands of Odawa Indians Tribal Court;
- L. “Tribe” means the Little Traverse Bay Bands of Odawa Indians;

(Source: WOS 2011-006, March 22, 2011, Section III)

6.3304 APPOINTMENT AND COMPENSATION

- A. In accordance with the Tribal Constitution, the Tribal Chair shall receive, prepare and submit nominations to the Tribal Council for consideration for the appointment of the Prosecutor.
- B. The Prosecutor shall be appointed by an affirmative vote of six of the nine Tribal Council members and such appointments shall be for a three year term, without limitations on reappointment.
- C. Assistant Prosecutors shall be appointed by an affirmative vote of six of the nine Tribal Council members and such appointments shall be for a two year term without limitations on reappointment.
- D. The Prosecutor and Assistant Prosecutors shall be compensated in accordance with the Constitutionally Mandated Compensation Statute and any amendments therein.

(Source: WOS 2011-006, March 22, 2011, Section IV)

6.3305 QUALIFICATION

- A. Any person shall be eligible to serve as Prosecutor only if he/she:
 - 1. Is an attorney in good standing licensed to practice law in Tribal Court and any state in the United States;
 - 2. Applicable Indian Preference laws shall apply to this position;
- B. The Prosecutor may be removed in accordance with Section XII, for failure to maintain such listed qualifications.

(Source: WOS 2011-006, March 22, 2011, Section V)

6.3306 PROSECUTOR'S OFFICE

- A. The Prosecutor's office shall function as an independent office, separate from the three branches of government
- B. The Prosecutor shall develop and implement office policies and procedures for purchasing, and personnel, etc., in accordance with standard administrative and accounting practices.
- C. The Prosecutor shall have the authority to hire administrative staff, subject to budget approval by the Tribal Council.

(Source: WOS 2011-006, March 22, 2011, Section VI)

6.3307 FUNDING

- A. The Prosecutor shall submit an annual budget directly to the Tribal Council in accordance with the Budget Formulation Statute, or such future Statute as amended.
- B. The Prosecutor may apply for grants and other funding that enhances the functions of the office in accordance with applicable laws and/or policies.

(Source: WOS 2011-006, March 22, 2011, Section VII)

6.3308 DUTIES OF THE PROSECUTOR

- A. The Tribal Prosecutor shall:
 - 1. Be the Chief Law Enforcement Officer of the Tribe and shall represent the Tribe in all criminal investigations and prosecutions in Tribal Court, including, but not limited to:
 - a. Reviewing all charges and complaints of violations of the Tribal Criminal Laws or such other laws or Statutes as authorized by such law or Statute.
 - b. Having the discretion to prosecute violations of the Tribal Criminal Laws and such other laws or Statutes as authorized by such law or Statute by

6.3309 APPOINTMENT OF SPECIAL PROSECUTOR

- A.** In the case of either a conflict of interest or where the Prosecutor is unavailable, the Special Prosecutor also known as the Assistant Prosecutor shall have all of the authority of the Tribal Prosecutor in the handling of matters or cases within the limited purpose as set forth in this section.
- B.** The Prosecutor shall recuse him or herself from any matter or case as the Prosecutor deems appropriate based on conflict of interest or where a Court of competent jurisdiction, upon motion of an interested party or on its own motion, finds a conflict of interest.
- C.** Unavailable, within this section, shall mean death, incapacity, vacancy, or unavailable or unresponsive by phone, electronic communications, or other means for a period of not less than 24 hours and the matter needs to be addressed within 48 hours or the Tribe will suffer detrimental harm or the matter needs immediate attention within a 24 period or the Tribe will suffer detrimental harm.
- D.** Every two years, the Tribal Chair shall provide nominations for Special Prosecutor/Assistant Prosecutor for Tribal Council approval. Such nomination shall meet the qualifications as set forth in Section V of this Statute and shall be approved in accordance with the Tribal Constitution. The Special Prosecutor/Assistant Prosecutor shall only serve for the limited purpose of handling matter or cases that involve a conflict of interest for the Prosecutor or a vacancy in the Prosecutor position during the two year appointment.
- E.** The Special Prosecutor/Assistant Prosecutor shall have all of the authority of the Tribal Prosecutor in the handling of matters or cases within the limited purpose as set forth in this section.

(Source: WOS 2012-014, August 19, 2012, Section IX)

6.3310 SPECIAL ETHICAL CONSIDERATION OF THE PROSECUTOR

- A.** The Prosecutor shall:

1. Refrain from prosecuting a charge that the Prosecutor knows is not supported by probable cause;
2. Make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining counsel and has been given reasonable opportunity to obtain counsel as permitted by the Indian Civil Rights Act [25 U.S.C. Section 1302];
3. Not seek to obtain from an unrepresented accused a waiver of important pretrial rights;
4. Make timely disclosure to the defense of all evidence or information known to the Prosecutor that tends to negate the guilt of the accused or mitigates the degree of the offense, and, in connection with sentencing, disclose to the defense and to the Court all unprivileged mitigating information known to the Prosecutor, except when the Prosecutor is relieved of this responsibility by a protective order of this Court;
5. Refrain from making extrajudicial statements that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:
 - a. Information contained in a public record;
 - b. That the investigation is in progress;
 - c. The general scope of the investigation including a description of the offense, and if permitted by law, the identity of the victim;
 - d. A request for assistance in apprehending a suspect or assistance in other matters and the information necessary to the request for assistance; or
 - e. A warning to the public of any dangers.
6. Exercise reasonable care to prevent investigators, law enforcement, employees, or other persons assisting or associated with the Prosecutor in a criminal case from making an extrajudicial statement.

7. Not receive any fee or reward from or on behalf of any victim or other individual for services in any prosecution or business which it is the Prosecutor's official duty to attend.
 8. Not hold any other Tribal elected or Judicial office while in office as the Prosecutor.
 9. Not appear for or defend any person that was previously charged or issued an arrest warrant by the Prosecutor.
- B.** Prosecutors have a duty to not be dissuaded from making difficult or unpopular decisions. Prosecutors have a responsibility to study the applicable law and factors. They must not be influenced in making these decisions by the fear of being unpopular politically or from the threat of community or personal reprisal. They must not be influenced by threatening community or family anger. Their decisions should never be reactive to non-admissible influences, rather they should act based on their opinion as formed by the applicable facts and law of each case.
- C.** The political activity of a Prosecutor shall be consistent with the support of the Tribe's jurisdictional rights. Tribal Prosecutors will refrain from all political activities or actions which could be interpreted in the community as supporting any political position except that the Tribe's right and responsibility to govern its own Citizens and its own territory. All actions should be consistent with this belief and supportive of this standard. This prohibition does not mean that Prosecutors cannot, if they choose, engage in activities of electoral politics at the local, state, national or tribal level. This prohibition is specific as to politics adversely affecting the jurisdictional rights of the Tribe.
- D.** A Prosecutor may write, lecture, teach and speak on any subject, and engage in the arts, sports, and other social and recreational activities of the Tribe, if those activities do not interfere with the performance of his or her duties.
- E.** A Prosecutor shall avoid financial and business dealings that tend to reflect adversely on his or her impartiality, interfere with the performance of his or her Prosecutorial duties, exploit the Prosecutor's position, or involve him or her in frequent transactions with lawyers and others likely to be involved in the opposing side in court cases. The

Prosecutor may, however, hold other employment or participate in the operation of a business.

- F.** Neither the Prosecutor nor any member of his or her family or household shall accept a gift, bequest, favor, or loan from anyone which would affect or appear to affect his or her impartiality in Prosecutorial duties, or on the Prosecutor's appearance of fairness.
- G.** A Prosecutor shall disqualify himself or herself from acting as Prosecutor in any proceeding in which his or her impartiality might reasonably be questioned, including instances where:
- 1.** The Tribal Prosecutor has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts;
 - 2.** The Tribal Prosecutor served as lawyer, advocate, or personal representative in the matter before the Court, or a person with whom the Tribal Prosecutor has been associated with in a professional capacity served as a lawyer, advocate or personal representative concerning the matter;
 - 3.** The Tribal Prosecutor knows that he or she individually or a member of his or her family or household has a financial interest in the subject matter in controversy or is a party to the proceeding, or has any other interest that could be substantially affected by the proceedings; or
 - 4.** The Prosecutor or a member of his or her family or household:
 - a.** Is a party to the proceeding, or an officer, director, or trustee of a party;
 - b.** Is acting as a lawyer or lay advocate in the proceeding; or
 - c.** Is to the Prosecutor's knowledge likely to be a material witness in the proceeding.
- H.** The Prosecutor shall be subject to the Constitutionally Mandated Rules of Conduct for Officials of Tribal Government.

(Source: WOS 2011-006, March 22, 2011, Section X)

6.3311 CRIMINAL INVESTIGATIONS

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

(Source: WOS 2011-006, March 22, 2011, Section XI)

6.3312 NOT TO ACT IN CIVIL MATTER

The Prosecutor shall not act or represent the Tribe in civil matters, unless authorized by Law or Statute or prior approval of the Tribal Council, except as provided in article X, § A of the Tribal Constitution.

(Source: WOS 2011-006, March 22, 2011, Section XII)

6.3313 NOTICE AND REPORTING REQUIREMENTS

All notices received by the Tribe for State Court Child Welfare proceedings, as required by the Indian Child Welfare Act, shall be immediately forwarded to the Tribal Prosecutor.

(Source: WOS 2011-006, March 22, 2011, Section XIII)

6.3314 REMOVAL OF TRIBAL PROSECUTOR

- A.** A Prosecutor may only be removed by a vote of six of the nine members of Tribal Council for one or more of the following reasons:
- 1.** Unethical conduct as defined by this Statute or any other applicable Code of Conduct adopted by the Tribal Council or Tribal Court.
 - 2.** Physical or mental disability which prevents the performance of his or her duties.
 - 3.** Persistent failure to perform duties in a timely manner.

4. Gross misconduct that is clearly prejudicial to the administration of justice.
 5. Fails to maintain the requirements for qualifications found in Section V.
- B.** The Prosecutor shall be given adequate notice of any proceeding for removal and shall have an opportunity to examine the evidence against them, offer evidence in their favor, call witnesses in their favor, examine witnesses, and address the body conducting the removal proceeding.

(Source: WOS 2011-006, March 22, 2011, Section XIV)

6.3315 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 2011-006, March 22, 2011, Section XV)

6.3316 EFFECTIVE DATE

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

(Source: WOS 2011-006, March 22, 2011, Section XVI)

Chapter 34. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1401

Chapter 35. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1001

Chapter 36. Repeal of LTBB Waganakising Representative to Michigan Anishnaabeg Cultural Preservation and Repatriation Alliance (MACPRA) and Native American Graves Protection and Repatriation Act (NAGPRA)

6.3601 PURPOSE

The purpose of this Statute is to repeal the Waganakising Odawak Statute 2011-017 LTBB Waganakising Representative to Michigan Anishnaabeg Cultural Preservation and Repatriation Alliance (MACPRA) and Native American Graves Protection and Repatriation Act (NAGPRA) Statute.

(Source: WOS 2018-021, December 5, 2018, Section I)

6.3602 FINDINGS and REPEALED

The authority and duties of the Michigan Anishnaabeg Cultural Preservation and Repatriation Alliance (MACPRA) and Native American Graves Protection and Repatriation Act (NAGPRA) representative(s) are incorporated into the Tribal Historic Preservation Office that is composed of the Tribal Historic Preservation Officer and staff, in accordance with WOS 2014-013, *Tribal Historic Preservation Office Protection and Management of Archaeological, Historical, and Cultural Properties and Cultural Resources Statute*, or as may be amended. Therefore, WOS 2011-017, *LTBB Waganakising Representative to Michigan Anishnaabeg Cultural Preservation and Repatriation Alliance (MACPRA) and Native American Graves Protection and Repatriation Act (NAGPRA) Statute* is hereby repealed in its entirety.

(Source: WOS 2018-021, December 5, 2018, Section II)

6.3603 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 2018-021, December 5, 2018, Section III)

6.3604 EFFECTIVE DATE

This Statute shall only take effect upon the passage of Waganakising Odawak Statute Tribal Historic Preservation Office Protection and Management of Archaeological, Historical and Cultural Properties and Cultural Resources.

Effective upon signature of the Executive or thirty (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 2018-021, December 5, 2018, Section IV)

Chapter 37. Tribal Chair Ambassadorial Capacity and Tribal Representatives

6.3701 SHORT TITLE

This Statute shall be entitled “Ambassadorial Capacity and Tribal Representatives” Statute. This statute rescinds and replaces any and all previous Statutes, Resolutions, Regulations and/or policies related to this subject matter that is in conflict with this Statute. WOS 2006-002 is repealed and replaced by this Statute.

(Source: WOS 2012-001, March 18, 2012, Section I)

6.3702 PURPOSE

To provide clarification, authority and duties of the Ambassador and Representatives in carrying out their respective responsibilities on behalf of the Tribe.

(Source: WOS 2012-001, March 18, 2012, Section II)

6.3703 DEFINITIONS

- A. **“Ambassador”** means the Tribal Chair designated by the Tribal Constitution to represent the Tribe when meeting with high-ranking officials of other sovereign nations.
- B. **“Representative”** means the person designated by the Tribal Chair and approved by Tribal Council to represent the Tribe at meetings that require voting on behalf of the Tribe including meeting with the following: lower ranking government officials, Tribal organizations, Inter-Tribal organizations, non-profits, or other governmental or municipal sub-entities.
- C. **“Sovereign Nations”** means United States Government, State of Michigan, Federally Recognized Tribes, and other foreign or domestic governments.

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

E. “**Tribal organizations/Inter-Tribal organizations**” means an entity with voluntary membership and is made up of Tribes and individuals who have met eligibility criteria, such as United Tribes of Michigan, Midwest Alliance of Sovereign Tribes, National Congress of American, and National Indian Gaming Authority.

(Source: WOS 2012-001, March 18, 2012, Section III)

6.3704 AMBASSADORIAL CAPACITY

A. According to the Tribal Constitution, the Chairperson shall have the power and duty to represent the Tribe in an ambassadorial capacity. Article VIII, and does not need Tribal Council approval in representing the Tribe in an ambassadorial capacity.

B. The Chairman shall represent the Tribe when meeting with or attending functions that involve high-rank officials of other sovereign nations.

C. The Chairman does not have the authority to bind the Tribe either expressly or implied, unless approved by Tribal Council, prior to the action or vote taken.

D. The Chairperson shall stand for the best interests of the Tribe and Tribal Citizens and shall not represent, explicitly or implicitly, any interest that is adverse to the Tribe’s interest.

(Source: WOS 2012-001, March 18, 2012, Section IV)

6.3705 REPRESENTATIVE APPOINTMENT AND REMOVAL

A. The Representative may be appointed for a set term or on a temporary basis. All appointed positions shall be nominated by the Executive and approved by a majority vote of Tribal Council by Certified Motion or in limited cases by Resolution that contains the term of the appointment.

B. Where appropriate, the nominate for “Tribal organizations/Inter-Tribal organizations” such as United Tribes of Michigan, Midwest Alliance of Sovereign Tribes, National Congress of American Indians shall be the Tribal Chair/Vice Chair or in the alternative a Tribal Council member if the Tribal Chair/Vice Chair is unwilling or unable to participate. The nomination for the National Indian Gaming Authority shall be a member of the Gaming Authority or in the alternative a Tribal Council member or Tribal Chair/Vice Chair if no member of the Gaming Authority is willing or able to participate.

C. The Representative does not have the authority to bind the Tribe either expressly or implied, unless approved by Tribal Council, prior to the action or vote taken on behalf of the Tribe.

D. The Representative shall stand for the best interests of the Tribe and Tribal Citizens and shall not represent, explicitly or implicitly, any interest that is adverse to the Tribe’s interest.

E. The Representative may be removed by $\frac{3}{4}$ majority vote of those Tribal Council members who are eligible to vote.

F. If a vacancy occurs or immediate action needs to be taken, then the Executive may nominate him or herself, or a Tribal Council member to fill the representative position on an interim basis.

(Source: WOS 2012-001, March 18, 2012, Section V)

6.3706 DUTIES AND AUTHORITY OF THE REPRESENTATIVE

A. The Representative shall advocate for the best interest of the Tribe.

B. The Representative shall have voting privileges while representing the Tribe’s interests.

C. The Representative shall provide a report to the Tribal Council quarterly or as requested by Tribal Council.

(Source: WOS 2012-001, March 18, 2012, Section VI)

6.3707 MEMBERSHIP AUTHORIZED

A. The Tribal Council authorizes annual membership in the Midwest Alliance of Sovereign Tribes, National Indian Gaming Association, National Congress of American Indians and United Tribes of Michigan along with other such organizations as approved by Tribal Council.

(Source: WOS 2012-001, March 18, 2012, Section VII)

6.3708 APPROPRIATIONS

A. This Statute shall be funded by General Funds and a line item shall be designated in the Executive Budget for the funding of this Statute or such other budgets as appropriate.

B. Upon approval of a Representative to an appointed position, Tribal Council shall appropriate the funds necessary to pay annual dues for organizations and hereby directs the Executive to place appropriate allocations in for future budget requests, if funds are not already appropriated otherwise.

C. The Executive is authorized to release the information necessary for each organization to determine dues, votes, and other membership conditions.

(Source: WOS 2012-001, March 18, 2012, Section VIII)

6.3709 DAMAGES AND LIABILITY

A. If the Chairperson takes actions in his/her ambassadorial capacity that is beyond the authority or adverse to the interests of the Tribe, the Tribal Chairperson shall be held personally liable for any costs or damages that arise out of such action.

B. If the Representative takes actions in his/her capacity of representing the Tribe that is

beyond the authority or adverse to the interests of the Tribe, the Representative shall be held personally liable for any costs or damages that arise out of such action.

C. Tribal Council expressly waives sovereign immunity of the Tribal Chairperson and/or Representative for any liability or damages incurred as a result of his/her action if it is found to be beyond their authority or adverse to the interests of the Tribe.

(Source: WOS 2012-001, March 18, 2012, Section IX)

6.3710 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 2012-001, March 18, 2012, Section X)

6.3711 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 2012-001, March 18, 2012, Section XII)

Chapter 38. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1501

Chapter 39. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1601

Chapter 40. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1701

Chapter 41. Reserved

Codification Note” The chapter previously located here has been relocated to Title XV at 15.1801

Chapter 42. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.1901

Chapter 43. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.2001

Chapter 44. Tribal Secretary Responsibilities

6.4401 PURPOSE

This Statute is hereby enacted to define the Tribal Council Secretary's responsibilities that are not explicitly enumerated in the Constitution.

(Source: WOS 2012-017, October 7, 2012, Section I)

6.4402 DEFINITIONS

- A. "LTBB" or "Tribe" means the Little Traverse Bay Bands of Odawa Indians.
- B. "Secretary" means the Tribal Council Secretary.

(Source: WOS 2012-017, October 7, 2012, Section II)

6.4403 CONSTITUTIONAL DUTIES OF THE SECRETARY

The Secretary shall:

- A. At each Tribal Council meeting, submit the minutes of the previous meeting to the Tribal Council for approval;
- B. Acquire a surety bond, in an amount and with a surety company satisfactory to the Tribal Council;
- C. Post minutes approved by the Tribal Council in the Tribal administrative office within seven (7) days of approval;
- D. Maintain and protect the Tribal Seal;
- E. Preside over meetings of the Tribal Council in the absence of the Legislative Leader; and

- F.** Perform such other duties as required by Tribal Council

(Source: WOS 2012-017, October 7, 2012, Section III)

6.4404 OTHER DUTIES REQUIRED BY THE TRIBAL COUNCIL

- A.** Upon a vacancy of the Legislative Leader, the Secretary shall assume the responsibilities of the Legislative Leader until there is no longer a vacancy, not to exceed thirty (30) days.
- B.** Upon a vacancy of the Treasurer, the Secretary shall assume the responsibilities of the Treasurer until there is no longer a vacancy, not to exceed thirty (30) days.
- C.** A vacancy occurs under the following conditions:
 - 1.** An emergency vacancy occurs when the Legislative Leader is unavailable or unresponsive by phone, electronic communications, or other means for a period of not less than twenty-four (24) hours and the matter needs to be addressed within forty-eight (48) hours or the matter needs immediate attention within a twenty-four (24) hour period to prevent the Tribe from suffering detrimental harm.
 - 2.** A temporary vacancy occurs when the Legislative Leader is unavailable or unresponsive by phone, electronic communications, or other means for a period of less than thirty (30) days.
- D.** If a permanent vacancy occurs there shall be a motion by Tribal Council to declare an Officer position vacant and shall not be considered a temporary vacancy. “Permanent Vacancy” means a vacancy by reason of death, resignation, removal from office, or an inability or incapacity that is for more than thirty (30) days.

(Source: WOD 2012-017, October 7, 2012, Section IV)

6.4405 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 2012-017, October 7, 2012, Section V)

6.4406 EFFECTIVE DATE

Effective upon the 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 2012-017, October 7, 2012, Section VI)

Chapter 45. Succession Plan for Officers of Tribal Council

6.4501 PURPOSE

To establish a succession plan for emergency, temporary, or permanent vacancy on Tribal Council Officer positions in accordance with the Constitution Article XIII, Section (F) to avoid any unnecessary delays in the regular business of Tribal Council.

(Source: WOS 2012-018, October 7, 2012, Section I)

6.4502 DEFINITIONS

- A. **“Constitution”** means the Little Traverse Bay Bands of Odawa Indians Constitution adopted February 01, 2005.
- B. **“Emergency Vacancy”** means being unavailable or unresponsive by phone, electronic communications, or other means for a period of not less than twenty-four (24) hours and the matter needs to be addressed within forty-eight (48) hours or the matter needs immediate attention within a twenty-four (24) hour period to prevent the Tribe from suffering detrimental harm.
- C. **“Legislative Leader”** means the Tribal Councilor that fulfills the duties set out in the Constitution, Article VII, Section (C)(1).
- D. **“Permanent Vacancy”** means a vacancy by reason of death, resignation, removal from office, or an inability or incapacity that is for more than thirty (30) days..
- E. **“Temporary Vacancy”** means being unavailable or unresponsive by phone, electronic communications, or other means for a period of less than thirty (30) days or the position is vacant for a period of less than thirty (30) days.

(Source: WOS 2014-002, February 19, 2014, Section II)

- F.** “**Tribal Councilor**” means any person that sits on Tribal Council including all Tribal Council Officers.
- G.** “**Tribal Council Officer**” means the Legislative Leader, Secretary and Treasurer of Tribal Council as set forth in the Constitution, Article VII, Section (B).
- H.** “**Tribal Secretary**” means the Tribal Councilor that fulfills the duties set out in the Constitution, Article VII, Section (C)(2).
- I.** “**Tribal Treasurer**” means the Tribal Councilor that fulfills the duties set out in the Constitution, Article VII, Section (C)(3).
- J.** “**Tribal Council**” means the Little Traverse Bay Bands of Odawa Indians Tribal Council.
- K.** “**Vacancy**” means any absence or inability to perform the required duties of the Tribal Councilor in question regardless of the length of the absence.

(Source: WOS 2012-018, October 7, 2012, Section III)

6.4503 SCOPE

This Statute shall apply whenever a vacancy of an Officer position of Tribal Council occurs.

(Source: WOS 2012-018, October 7, 2012, Section III)

6.4504 EMERGENCY AND TEMPORARY VACANCIES OF LEGISLATIVE LEADER

If the Legislative Leader is vacant from his or her position because of an emergency vacancy or a temporary vacancy or the position is temporarily vacant the following shall apply:

- A. The Secretary shall assume the responsibilities of the Legislative Leader until there is no longer a vacancy, not to exceed thirty (30) days.
- B. If there is a vacancy of the Secretary, the Treasurer shall assume the responsibilities of the Legislative leader until there is no longer a vacancy, not to exceed thirty (30) days.

(Source: WOS 2014-002, February 19, 2014, Section IV)

6.4505 PERMANENT VACANCY OF OFFICERS

- A. If a permanent vacancy occurs there shall be a motion by Tribal Council to declare an Officer position vacant.
- B. Upon declaration by Tribal Council of a vacancy, the following shall apply:
 - 1. The Tribal Council shall appoint a Tribal member who meets all of the qualifications set forth in the Constitution, Article VII (H).
 - 2. Article VII (H) states the required qualifications to serve as a Tribal Councilor:
 - a. *Members of the Tribal Council shall be Little Traverse Bay Bands of Odawa Indians members at least eighteen (18) years of age.*
 - b. *No person shall be sworn as a Tribal Council member if he or she is employed by the Little Traverse Bay Bands of Odawa Indians Tribal government, as described in Article XV (A)(2).*
 - c. *No person shall serve as a Tribal Council member within seven (7) years of completion of a sentence or probation upon being convicted of a felony, unless such conviction has been vacated or overturned.*

(Source: WOS 2012-018, October 7, 2012, Section V)

6.4506 VOTE OF NO CONFIDENCE OF OFFICERS

- A.** A vote of no confidence can be taken when an Officer of Tribal Council has acted or has failed to act in such a way that has caused an extreme hindrance in conducting Tribal Council's regular business.
- B.** Such a vote requires a unanimous vote of eligible Tribal Councilors.
- C.** The Officer of Tribal Council, of whose actions are in question, shall not be eligible for voting on his or her own no confidence action.

(Source: WOS 2012-018, October 7, 2012, Section VI)

6.4507 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 2012-018, October 7, 2012, Section VII)

6.4508 OTHER RELATED STATUTES

See Waganakising Odawak Statute 2012-017, Tribal Secretary Responsibilities and Waganakising Odawak Statute # 2012-019 Amendment to Waganakising Odawak Statute 2005-014 Tribal Treasurer Responsibilities.

(Source: WOS 2014-002, February 19, 2014, Section IX (VIII))

6.4509 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 2014-002, February 19, 2014, Section IV (IX))

Chapter 46. Reserved

Codification Note: The chapter previously located here has been replaced by WOS 2015-002 located at 6.5601 in this Title

Chapter 47. Reserved

Codification Note: The chapter previous located here has been relocated to Title XV at 15.2101

Chapter 48. Contracting

6.4801 SHORT TITLE

This Statute shall be entitled “Contracting Statute”. This statute rescinds and replaces any and all previous Statutes, Resolution, Regulations and/or policies related to this subject matter. This Statute repeals and replaces Waganakising Odawak Statute (WOS) 2018-019, Waganakising Odawak Statute (WOS) 2013-007 and WOS 2002-04, Section III. C. Contractors and Subcontractors.

(Source: WOS 2019-004, May 1, 2019, Section I)

6.4802 PURPOSE

To authorize the Tribe and its sub-entities to negotiate, execute and enforce contracts within the parameters stated in this Statute and provide for legal and financial review authority.

(Source: WOS 2019-004, May 1, 2019, Section II)

6.4803 DEFINITIONS

- A.** “Competitive Contracts” means contracts for which one or more vendors compete by placing bids.
- B.** “Enjinaaknegeng” means the LTBB Legal Department.
- C.** “Financial Review Authority” means a designated person within each Tribal branch or its sub-entity that has the authority to review finances.
- D.** “Frivolous law suit” means a suit without any legal merit.
- E.** “Non-Competitive Contracts” means contracts that do not require public notice or bids.

F. “Official” means any person holding an elective or appointed office in any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency and any establishment within the Executive, Legislative or Judiciary branch of the Tribe including Members of the Election Board and Prosecutors.

G. “Preponderance of the Evidence” means just enough evidence to make it more likely than not that the fact the claimant seeks to prove is true.

H. “Tribally-owned Corporations” means a Corporation or a subsidiary of a corporation that is at least fifty-percent (50%) owned or controlled by the Tribe.

(Source: WOS 2019-004, May 1, 2019, Section III)

6.4804 LEGAL and FINANCIAL REVIEW

A. To ensure that all contracts follow Tribal law and are in the best interest of the Tribe, all contracts entered into on behalf of Little Traverse Bay Bands of Odawa Indians (LTBB) or Odawa Casino Resort (OCR) or other LTBB Tribal entities must be reviewed by Enjinaaknegeng and the Financial Review Authority before they are executed and/or take effect.

1. Enjinaaknegeng shall review contracts for legal form, including, but not limited to, appropriate designation of parties, legal consideration (i.e., mutual obligations), jurisdiction, waiver of sovereign immunity, term and liability.

2. Each branch of the government or its sub-entity shall notify the Department of Commerce of the person identified as a “Financial Review Authority” and shall update the information as needed. A financial review will be conducted to ensure that all contracts are allowable under the program, budget and/or adequate finances are available to cover the contract.

(Source: WOS 2019-004, May 1, 2019, Section IV)

6.4805 WAIVER OF SOVERIEGN IMMUNITY

A. Any contract containing a provision for a waiver of sovereign immunity shall be approved by Tribal Council before they are executed and/or take effect unless otherwise authorized by Statute or Resolution.

B. The Tribal Council clearly and expressly waives its sovereign immunity to the Limited Remedies as set forth in this Statute for any official that violates this Statute.

(Source: WOS 2019-004, May 1, 2019, Section V)

6.4806 CENTRAL REPOSITORY FOR CONTRACTS

In order to maintain a central repository for contracts, a copy of all final, executed contracts entered into on behalf of LTBB or OCR or other LTBB Tribal entities shall be sent to Enjinaaknegeng for placement in a contract repository. The repository may be kept electronically as long as backups are maintained.

(Source: WOS 2019-004, May 1, 2019, Section VI)

6.4807 ETHICAL RESPONSIBILITIES OF LTBB CONTRACTING PARTIES

A. Standards of Conduct for Officials as Contracting Parties. All LTBB officials shall abide by Little Traverse Bay Bands of Odawa Indians *Constitutionally Mandated Rules of Conduct for Officials of Tribal Government* when involved in contracting activities.

B. Standards of Conduct for Employees as Contracting Parties. Employees shall disclose any potential conflict of interest when involved in contracting activities and shall abide all terms of the Employee handbook related to ethical considerations involving contracting activities.

(Source: WOS 2019-004, May 1, 2019, Section VII)

6.4808 TRIBAL CITIZENS PREFERENCE

A. Non-Competitive Contracts and Competitive Contracts. Contracting Parties must give a preference to LTBB Tribal Citizens and LTBB Tribal Citizen owned businesses in issuing noncompetitive and competitive contracts. Tribal Citizen owned businesses means a business owned by at least 51% by the LTBB Tribal Citizen.

B. LTBB Tribal Citizen Contractors/Vendors shall be given preference with respect to request for proposals and quotes only. A list of qualified LTBB Tribal Citizen Contractors/Vendors shall be maintained and updated semi-annually by the LTBB Executive or designee and shall be presented to Tribal Council for approval. This list may be subject to review by Enjinaaknegeng at any time.

C. LTBB Tribal Citizen Contractors/Vendors:

1. Shall hold similar qualifications as all other Contractors/Vendors in their product, service or specialty area.

2. Shall maintain quality of product, service or specialty area which is consistent with standards for their particular industry. If quality standards are not maintained, the contract may be revoked.

3. Shall maintain timeliness of delivery and/or service which is consistent with standards for their particular industry. If timeliness standards are not maintained, the contract may be revoked.

4. Shall be required to hold required licensure, provide performance bonds, etc. as required and/or stipulated in the request for proposal.

D. The Contracting Party shall not be bound by pricing with respect to Tribal Preference. For example, the LTBB Contractor/Vendor shall not receive a premium over others bidders due to Tribal Citizenry. In addition, a Tribal Citizen Contractor/Vendor that provides the lowest quote, yet does not meet the qualifications as noted above, may not be awarded the contract.

(Source: WOS 2019-004, May 1, 2019, Section VIII)

6.4809 TRIBALLY-OWNED CORPORATIONS

A. Non-Competitive Contracts and Competitive Contracts. Contracting Parties must give a preference to Tribally-owned Corporations in issuing noncompetitive and competitive contracts. “Tribally-owned Corporations” means a Corporation or a subsidiary of a corporation that is at least fifty-percent (50%) owned or controlled by the Tribe.

B. Tribally-owned Corporations shall be given preference with respect to request for proposals and quotes only. A list of qualified Tribally-owned Corporations shall be maintained and updated semi-annually by the LTBB Executive or designee and shall be presented to Tribal Council for approval. This list may be subject to review by Enjinaaknegeng at any time.

C. Tribally-owned Corporations:

- 1.** Shall hold similar qualifications as all other Contractors/Vendors in their product, service or specialty area.
- 2.** Shall maintain quality of product, service or specialty area which is consistent with standards for their particular industry. If quality standards are not maintained, the contract may be revoked.
- 3.** Shall maintain timeliness of delivery and/or service which is consistent with standards for their particular industry. If timeliness standards are not maintained, the contract may be revoked.
- 4.** Shall be required to hold required licensure, provide performance bonds, etc. as required and/or stipulated in the request for proposal.

D. The Contracting Party shall not be bound by pricing with respect to Tribally-owned Corporations. For example, the Tribally-owned Corporations shall not receive a premium over others bidders due to Tribal ownership. In addition, a Tribally-owned Corporations that provides

the lowest quote, yet does not meet the qualifications as noted above, may not be awarded the contract.

(Source: WOS 2019-004, May 1, 2019, Section IX)

E. General Funds and Sole Sourcing. The Tribe and its sub-entities shall offer first right of refusal to Tribally-Owned Corporation, if the following criteria is met:

1. Only General Funds are being used.
2. The Tribally Owned Corporation offers same or similar services at competitive or market value.
3. If the Tribally Owned Corporation does not accept the offer within five (5) business days, all other provisions of this Statute apply.

(Source: WOS 2019-010, August 30, 2019, Section I)

6.4810 AUTHORIZING SIGNATURES

A. As a general rule, only the persons with direct authority may sign a contract that binds the Tribe. An employee who enters into a contract that binds the Tribe or its sub-entities without authority may be subject to disciplinary actions, including termination. An Official who enters into a contract that binds the Tribe or its sub-entities without authority may be held personally liable.

B. The Accounting Office will not issue and/or sign a check for goods and services obtained in violation of this policy without a written justification substantiating why the contract was not presented in a timely fashion or was signed by an unauthorized person.

(Source: WOS 2019-004, May 1, 2019, Section X)

6.4811 LIMITED REMEDIES BEFORE THE TRIBAL COURT FOR VIOLATIONS

A. An Official who enters into a contract that binds the Tribe or its sub-entities without authority may be personally sued for the incurred liability. Any claim of violation against an Official must be filed with the Tribal Court either during the duration of the contract or within ninety (90) days after the end of the term of the contract.

B. In any action filed under this Statute, the Tribal Court may grant the following remedies:

1. *Equitable Remedies.* If the Tribal Court determines that the preponderance of the evidence indicates that a violation occurred, its judgment must specify an appropriate equitable remedy or remedies for that violation.

2. *Damages.*

a. The standard for determining whether a violation of this statute has occurred for the purpose of imposing damages is “preponderance of the evidence.”

b. If the Tribal Court finds a violation of this statute occurred with negligence, gross negligence, reckless indifference or malice, the Tribal Court may additionally award compensatory, punitive damages and/or fines.

3. The Tribal Court may award reasonable attorney fees and costs at its discretion to the prevailing.

4. If the Tribal Court finds that the non-prevailing party’s claims were frivolous, the Court should fine the party and may order any other remedies as the Tribal Court deems appropriate.

(Source: WOS 2019-004, May 1, 2019, Section XI)

6.4812 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 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, the entirety of the balance of the statute remain in full and binding force and effect.

(Source: WOS 2019-004, May 1, 2019, Section XII)

6.4813 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 2019-004, May 1, 2019, Section XIII)

6.4814 OTHER RELATED STATUTES

See Waganakising Odawak Statute (WOS) 2014-011 Contracts Statute, or as may be amended.

(Source: WOS 2019-004, May 1, 2019, Section XIV)

Chapter 49. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.2201

Chapter 50. Reserved

Codification Note: The chapter previously located here has been relocated to Title XI at Chapter 10.

Chapter 51. Use of Legal for Purposes of Separation of Powers Questions

6.5101 PURPOSE

The purpose of this Statute is to set out the roles and functions of the Legal Counsel to resolve dispute between the Executive and Legislative branches regarding questions of Separation of Powers.

(Source: WOS 2014-009, September 8, 2014, Section I)

6.5102 DEFINITIONS

- A.** “Enjinaaknegeng” means the Legal Department as set forth in Waganakising Odawak Statute 2011-008, or as amended.
- B.** “Executive Services Attorney” means the attorney as set forth in Waganakising Odawak Statute 2012-007, or as amended.
- C.** “General Counsel” means the attorney as set forth in Waganakising Odawak Statute 2011-008, or as amended.
- D.** Legislative Services Attorney means the attorney as set forth in Waganakising Odawak Statute 2006-022, or as amended.

(Source: WOS 2014-009, September 8, 2014, Section II)

6.5103 SEPARATION OF POWERS QUESTIONS

In the event of a disagreement between the Executive and Legislative Branches on a question involving Separation of Powers, the Executive Services Attorney and Legislative Services Attorney will participate in informal efforts to come to an agreement on such questions.

- A.** The General Counsel works for the Tribe as a whole, therefore if the Executive and

Legislative Branches continue to disagree after informal efforts are used to resolve the question involving Separation of Powers, then the Executive and Legislative Branches may jointly request a written nonbinding analysis from the General Counsel.

B. The Executive Services Attorney will represent the position of the Executive Branch in Tribal Court, and the Legislative Services Attorney will represent the position of the Legislative Branch in Tribal Court, provided that tribal sovereignty is expressly waived.

(Source: WOS 2014-009, September 8, 2014, Section III)

6.5104 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 2014-009, September 8, 2014, Section IV)

6.5105 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 2014-009, September 8, 2014, Section V)

6.5106 OTHER RELATED STATUTES

See Waganakising Odawak Statute 2006-22, Office of Legislative Services Attorney; Waganakising Odawak Statute 2012-007, Office of Executive Services Attorney; Waganakising Odawak Statute, 2011-008, Enjinaaknegeng.

(Source: WOS 2014-009, September 8, 2014, Section VI)

Chapter 52. Contracts

6.5201 SHORT TITLE

This Statute may be cited as the “Contracts Statute.”

(Source: WOS 2014-011, September 25, 2014, Section I)

6.5202 PURPOSE

The purposes of this Statute are to establish a cause of action for Contracts, and to set forth the Contractual rights and duties of parties, and to provide for the enforcement of Contracts within the Tribe’s jurisdiction.

(Source: WOS 2014-011, September 25, 2014, Section II)

6.5203 DEFINITIONS

- A. **“Acceptance”** means a communication made by an Offeree to an Offeror agreeing to the content of the Offer that manifests intent to enter into a Contract.
- B. **“Assignor”** means one who makes an assignment.
- C. **“Consideration”** means some form of legal benefit or detriment that reflects a bargained-for exchange between the parties to a Contract.
- D. **“Contract”** means a promise or set of promises, the performance or breach of which gives rise to a legally recognized duty.
- E. **“Court”** means the courts of the Little Traverse Bay Bands of Odawa Indians.
- F. **“Delegate”** means one who represents or acts for another.

- G.** “**Delegator**” means one who delegates to another.
- H.** “**Divisible Contract**” means a Contract where the performance of each party is divided into two or more parts.
- I.** “**Merchant**” means a person who regularly deals in goods of the kind.
- J.** “**Minor**” means a person under the age of 18 years.
- K.** “**Obligor**” means a person or entity who owes an obligation to another.
- L.** “**Offer**” means a communication made by an Offeror to an Offeree that demonstrates the intent to enter into a Contract.
- M.** “**Offeree**” means a person or entity to which an Offer is made.
- N.** “**Offeror**” means a person or entity that makes an Offer.
- O.** “**Promisee**” means a person or entity to which a promise is made.
- P.** “**Promisor**” means a person or entity that makes a promise.
- Q.** “**Signature**” means some symbol, mark or other writing, whether by hand or by electronic means, intended by the signor to serve as acknowledgement of his or her acceptance or approval.
- R.** “**Tender**” means the present willingness and ability to perform.
- S.** “**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).

- T.** “**Tribal Citizen**” means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.
- U.** “**Tribal Court**” means the Little Traverse Bay Bands of Odawa Indians Tribal Court.
- V.** “**Tribe**” means the Little Traverse Bay Bands of Odawa Indians.
- W.** “**Writing**” means any document that identifies the material terms of a Contract. A Writing can be in any form, tangible or electronic.

(Source: WOS 2014-011, September 25, 2014, Section III)

6.5204 JURISDICTION

The Tribe’s jurisdiction under this Statute extends to all Contracts where both parties to the Contract are Tribal Citizens, or at least one party to the Contract is the Tribe or a Tribal Citizen and the Contract is entered into, and is intended to be performed, within the Territorial Jurisdiction of the Tribe.

(Source: WOS 2014-011, September 25, 2014, Section IV)

6.5205 STATUTE OF LIMITATIONS

An action for breach of Contract must be brought within four years of the date that the non-breaching party becomes aware of the breach; otherwise the action is barred, unless a different time limit has been agreed to by the parties as indicated in the Contract.

(Source: WOS 2014-011, September 25, 2014, Section V)

6.5206 CONTRACT FORMATION

- A. In General.** To form a valid Contract, there must be an Offer, an Acceptance, and valid Consideration given.
- 1. Offer.** An Offer creates a power of Acceptance in the Offeree and a corresponding liability on the part of the Offeror.
 - a.** For a communication to be an Offer, it must contain a promise, undertaking, or commitment to enter into a Contract that shows the Offeror's intent to Contract.
 - b.** The Offer must be definite and certain as to the identity of the Offeree or the class to which Offeree belongs, the subject matter of the Offer, and the price to be paid, unless indicated otherwise.
 - 2. Acceptance.** An Acceptance is a manifestation of assent to the terms of the Offer, through which the Offeree exercises the power given by the Offeror to create a Contract.
- B. Bilateral Contract.** A bilateral Contract is formed by a mutual exchange of promises, in which each party is both a Promisor and a Promisee.
- C. Unilateral Contract.** A unilateral Contract is formed only upon the Offeror requesting performance, rather than a promise, and full performance by the Offeree.
- D. Definiteness of Subject Matter.** The subject matter of a Contract must be reasonably certain such that the promise is identifiable.
- 1.** A Contract involving the sale of real estate must identify the land, the price to be paid, and the parties to the Contract.
 - 2.** A Contract involving the sale of goods must contain the quantity. It is sufficient if a Contract calls for one party to supply all that the party produces or all that the

other party requires, so long as the quantity is capable of being determined.

3. A missing Contract term does not prevent formation of the Contract if it appears under the facts and circumstances that the parties intended to make a Contract, and there is a reasonably certain basis for giving a remedy. The Court may supply reasonable terms for those that are missing.
 - a. If the missing term is price, the Court may use the fair market value or the value currently used in the geographical area and the relevant industry to determine a reasonable price.
 - b. For any other missing term in a Contract, the Court should base its determination on the course of dealing between the parties, the course of performance between the parties, or industry practice or standards.

E. Terminating an Offer. The power of Acceptance created by an Offer ends when the Offer is terminated by revocation, rejection, operation of law, or expiration.

1. **Revocation.** An Offeror may revoke his or her Offer at any time before the Offeree accepts. The revocation may be communicated to the Offeree either directly or indirectly. Indirect communication of the revocation occurs when the Offeree receives correct information from a reliable source of any action of the Offeror that would indicate to a reasonable person that the Offeror no longer wishes to make the Offer.
 - a. A revocation by the Offeror is effective when it is received by the Offeree. The revocation need not be actually read by the Offeree. It is sufficient if the revocation is received at the Offeree's place of business, home, or otherwise comes to the Offeree's attention.
 - b. **Exceptions.** An Offeror's power to revoke his or her Offer is limited in the following situations:

- i. Option Contract.** An Offeror may not revoke an Offer if the Offeree has given consideration for a promise by the Offeror not to revoke.
- ii. Detrimental Reliance.** Where the Offeror could reasonably expect that the Offeree would rely to his or her detriment on the Offer; and the Offeree does so rely, the Offer will be held irrevocable as an option Contract for a reasonable length of time.
- iii. Part Performance of Unilateral Contract.** An Offer for a unilateral Contract becomes irrevocable once performance has begun. Once the Offeree has begun performance, he or she has a reasonable time to complete performance, during which time the Offer remains irrevocable.

- 2. Rejection.** An Offeree may terminate an Offer by an express rejection or a counteroffer.
 - a.** An express rejection is a statement by the Offeree that he or she does not intend to accept the Offer; and such statement will terminate the Offer.
 - b.** A counteroffer is an Offer made by the Offeree to the Offeror that contains the same subject matter as the original Offer, but differs in its terms. A counteroffer serves as both a rejection of the original Offer and a new Offer.
 - c.** A rejection is effective when it is received by the Offeror.
 - d.** If an Offer is rejected, the Offeror may restate the same Offer and create a new power of Acceptance. The Offeror may also make a different offer.

3. Termination by Operation of Law.

- a. If either of the parties dies, is adjudicated insane or incompetent, or is appointed a guardian prior to Acceptance, the Offer is terminated. It is not necessary that the death, insanity or incompetence be communicated to the other party. However, if the rules limiting an Offeror's power to terminate are applicable (option Contract, detrimental reliance, or part performance), then death, insanity or incompetence will not terminate the Offer.
- b. If the subject matter of the Contract is destroyed, the Offer is terminated.
- c. If the subject matter or the performance of the Contract becomes illegal, the Offer is terminated.

4. Expiration.

- a. An Offer remains open for the time period specified or, if no time is stated, for a reasonable period of time.

F. Acceptance of an Offer. For an Offer to be accepted, the Offeree must know of the Offer and unequivocally accept the Offer in the manner requested or by other reasonable means.

- 1. An Acceptance is effective at the moment it is received by the Offeror personally or at his or her usual place of business. However, if the Acceptance is by mail or similar means, it is effective at the moment of dispatch so long as the mail is properly addressed and stamped.
- 2. Any additional or different terms in the response will not constitute an Acceptance, and will instead be considered a rejection and a counteroffer.

(Source: WOS 2014-011, September 25, 2014, Section VI)

6.5207 DETERMINING THE TERMS OF A CONTRACT

A. General Rules of Interpretation.

1. Contracts must be interpreted as a whole. Specific clauses will be subordinated to the Contract's general intent.
2. Words must be interpreted according to their ordinary meaning, unless the words are defined in the Contract or it is clear that they were meant to be used in a technical sense.
3. If provisions within the Contract appear to be inconsistent, written or typed provisions will prevail over handwritten provisions.
4. Ambiguities in a Contract are construed against the party preparing the Contract, absent evidence of any contrary intention of the parties.

B. Parol Evidence.

1. **Parol Evidence Rule.** Where parties have agreed to a written Contract as the final expression of their agreement, a prior written or oral agreement, or a contemporaneous oral agreement, cannot be used to vary the terms of the Contract.
 - a. To determine whether the parties intended the Writing as the final expression of their agreement, the Court must consider all the specific circumstances of the transaction, and consider whether similarly situated parties would normally include the matter sought to be introduced into a written Contract.
 - b. Extrinsic evidence may be admitted where it does not seek to vary, contradict, or otherwise include contrary terms to the written Contract. The following may be admitted as extrinsic evidence:
 - i. Where a party asserts that the agreement, although accurately reflected in the Writing, never came into being because of a

formation defect or some similar defect; or

- ii. Where the evidence concerns a collateral matter that is of the type that would naturally be omitted from the written agreement and does not conflict with the terms of the written Contract.

C. Modification of Contract Terms.

1. A final Contract cannot be modified unless the modification is supported by new Consideration.
2. A written Contract may be modified orally. However, if a Contract, as modified, falls within Section XI.C.1 herein concerning the Prevention of Fraud, the Contract and any modification must be in Writing.

(Source: WOS 2014-011, September 25, 2014, Section VII)

6.5208 PERFORMANCE OF A CONTRACT

A. In General. A party's basic duty is to substantially perform all that is called for in the Contract.

B. Discharging Contractual Duties. A party's duties under a Contract may be discharged under the following circumstances:

1. **Performance.** Full and complete performance under the Contract discharges a party's duties under the Contract.
2. **Tender.** A good faith Tender of performance made in accordance with contractual terms discharges a party's duties under the Contract.

- 3. Illegality.** If the subject matter or the performance of the Contract becomes illegal, the party's duties under the Contract are discharged.
- 4. Impossibility.** The occurrence of an unanticipated or extraordinary event that makes performance of the Contract impossible may discharge the party's duties if such duties are objectively impossible to perform.

 - a.** The impossibility must be objective, meaning that the duties could not be performed by anyone.
 - b.** If the performance to be rendered under the Contract becomes only partially impossible, the duty may be discharged only to that extent.
 - c.** The death or physical incapacity of a party will not render the Contract impossible, unless the party who is now deceased or incapacitated was a person necessary to effectuate the Contract.
- 5. Frustration.** The occurrence of a supervening act or event that frustrates the purpose of the Contract may discharge duties under the Contract. Frustration exists if the purpose of the Contract becomes valueless and the supervening act was not the fault of the party seeking the discharge.
- 6. Rescission.** A mutual rescission of the Contract by the parties by express agreement and including Consideration will discharge the duties of each.

 - a.** A rescission may be made orally, unless the Contract is within Section XI.C.1 herein concerning the Prevention of Fraud.
 - b.** Unilateral rescission may be granted only if the party seeking the rescission has adequate legal grounds, including claims of mistake, misrepresentation, duress, or failure of Consideration.

- 7. Novation.** A novation is the substitution of a new Contract for a previous one. The new Agreement extinguishes the rights and obligations that were in effect under the previous Agreement or accomplishes or achieves the substitution of a new party for an original party to the Contract, if the following requirements are met:

 - a.** A previous valid Contract exists; and
 - b.** All the parties are in agreement as to the new Contract.

- 8. Partial Modification.** If the parties subsequently modify part of the Contract, the modification serves to discharge those terms of the original Contract that are subject to the modification. However, a modification will not serve to discharge the entire Contract. To receive a partial discharge by modification, the following must be met:

 - a.** The modifying agreement must have been mutually assented to; and
 - b.** There must be Consideration for the modification; however it may be sufficient Consideration that each party limits his or her rights to enforce the original Contract.

- 9. Accord and Satisfaction.** An accord is an Agreement where one party to an existing Contract agrees to accept, in lieu of the performance that he or she is entitled to receive from the other party to the existing Contract, some other, different performance. The satisfaction is the performance of the accord agreement, and will discharge the duties under both Contracts.

(Source: WOS 2014-011, September 25, 2014, Section VIII)

6.5209 TERMINATION OF CONTRACT

- A. **In General.** A Contract may terminate upon the completion of performance by all parties.
- B. **Mutual Agreement.** The parties to a Contract may terminate the Contract between them by mutual agreement for any reason.
- C. **Breach.** A Contract may terminate upon a breach by one of the parties as set out in Section X of this Statute.

(Source: WOS 2014-011, September 25, 2014, Section IX)

6.5210 BREACH OF CONTRACT

- A. **In General.** A breach occurs when the Promisor is under an absolute duty to perform, the time for performance has passed, and the absolute duty of performance has not been discharged.
- B. **Effect of Breach.**
 - 1. The effect of a breach depends on the materiality of the breach. To determine whether a breach is minor or material, the Tribal Court may look to the following factors:
 - a. The extent to which each party will receive substantially the benefit he or she could have anticipated from full performance;
 - b. The extent to which either party may be adequately compensated in damages;
 - c. The extent to which each party has already performed or made preparations to perform;

- d. The extent to which each party will suffer hardship by termination of the Contract;
 - e. The extent to which either party acted negligently or willfully in his or her failure to perform; and
 - f. The extent to which the parties will perform the remainder of the Contract.
2. **Minor Breach.** A breach is minor if either party gains the substantial benefit of his or her bargain despite the Obligor’s defective performance. Minor breaches may include, but are not limited to, delays in performance or small deficiencies in the quality or quantity of performance when precision is not critical. The non-breaching party may have a remedy, but the breach will not relieve his or her duty of performance under the Contract.
3. **Material Breach.** A breach is material if either party does not receive the substantial benefit of the bargain as a result of failure to perform or defective performance. The non-breaching party is discharged from his or her duty to perform and has an immediate right to all remedies.
4. **Minor Breach Coupled with Unwillingness to Perform.** When the breach is minor and is coupled with an unwillingness to perform by the breaching party, the non-breaching party may treat this as a material breach. The non-breaching party is discharged from his or her duty to perform and has a right to all remedies.

(Source: WOS 2014-011, September 25, 2014, Section X)

6.5211 DEFENSES

A. Defenses to Formation.

1. **Lack of Mutual Assent.** If both parties entering into the Contract are mistaken about existing facts relating to the agreement, the Contract is voidable. The adversely affected party may void the Contract if:
 - a. The mistake concerns a basic assumption on which the Contract is made;
 - b. The mistake has a material effect on the agreed-upon exchange; and
 - c. The party seeking to void the Contract did not assume the risk of the mistake.

2. **Mistake in Transmission.** Where there is a mistake in the transmission of an Offer or Acceptance by an intermediary, the message as transmitted is operative unless the other party knew or should have known of the mistake.

3. **Ambiguity.** When a Contract contains language that has at least two possible meanings, the following rules apply:
 - a. **Neither Party Aware.** Where there is an ambiguity in the Contract that neither party was aware of at the time of contracting, there is no Contract unless both parties intended the same meaning.
 - b. **Both Parties Aware.** Where both of the parties were aware of the ambiguity at the time of contracting, there is no Contract unless both parties in fact intended the same meaning.
 - c. **One Party Aware.** Where one party was aware of the ambiguity and the other party was not at the time of Contracting, a Contract will be enforced according to the intention of the party who was unaware of the ambiguity.

4. **Misrepresentation.** Where one party makes a false assertion intended to induce a party to enter into a Contract, the Contract is voidable if the innocent party

justifiably relied on the false assertion.

5. **Lack of Consideration.** If the promises exchanged at the formation stage lack the elements of bargain or legal benefit or detriment, the Contract is void.
6. **Illegality.** If either, the Consideration, the subject matter, or the performance of the Contract is illegal under the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians or under applicable federal laws, the Contract is void. However, a party may not benefit from invoking illegality as a defense if that party knew of the illegal nature of the Consideration or subject matter of the Contract.

B. Defenses Based on Lack of Capacity.

1. **Legal Incapacity to Contract.** If a person is legally incapable of incurring binding contractual obligations, timely assertion of this defense by a Promisor makes the Contract voidable at his or her election.
 - a. **Contracts of Minors.** A Contract entered into between a minor and an adult is voidable by the minor, but is binding on the adult.
 - i. The minor may choose to disaffirm a Contract any time before, or shortly after, reaching the age of 18. If the minor chooses to disaffirm, the minor must return anything received under the Contract that still remains at the time of disaffirmance.
 - ii. A minor may affirm the Contract upon reaching the age of 18 either expressly or by failing to disaffirm the Contract within a reasonable time after reaching the age of 18.
 - iii. **Exception.** A minor is liable for the reasonable value of any necessities furnished to him or her.

virtue of the relationship between them is justified in assuming that the person will not act in a manner inconsistent with his or her welfare.

C. Defenses to Enforcement.

- 1. Prevention of Fraud.** For the prevention of fraud, certain Contracts must be evidenced by a Writing containing material terms and signed by the parties sought to be bound. If a Contract is required to be in Writing and is not, this fact must be raised as a defense, or it is waived. The following Contracts must be in Writing:
 - a.** A promise by an executor or administrator to pay the debts of an estate out of his or her own personal funds must be evidenced by a Writing.
 - b.** Suretyship promises, i.e., a promise to pay the debt of another, must be evidenced by a Writing. The promise must be to pay the debt of another upon default of that other person, and the promise must be made to the creditor.
 - c.** A promise in consideration of marriage must be evidenced by a Writing. The promise can be to do or refrain from doing something if the parties marry, or it may be a promise to induce marriage by offering something of value.
 - d.** A promise creating an interest in land must be evidenced by a Writing. Such promises include: the sale of real property; leases for more than one year; easements for more than one year, fixtures, minerals or structures to be severed by the buyer; and mortgages.
 - e.** A promise that by its terms cannot be performed within one year from the date of the Contract must be evidenced by a Writing. However, the Contract need not be in Writing if it is possible to complete performance under the Contract within one year, regardless of whether performance

actually occurs within one year.

- f. A Contract for the sale of goods or the furnishing of services for a price of one thousand dollars (\$1,000.00) or more must be evidenced by a Writing.

2. Unconscionability. The Court may refuse to enforce a provision or an entire Contract to avoid unfair terms because of unfair surprise to an individual consumer or unequal bargaining power between an individual consumer and a commercial vendor or Merchant.

- a. Inconspicuous risk-shifting provisions such as the following may be unconscionable: confession of judgment clauses; disclaimer of warranty provisions; and add-on clauses subjecting all of the property purchased by an individual consumer to repossession if a newly-purchased item is not paid for.
- b. A clause or Contract may be unconscionable and unenforceable if the individual consumer is unable to procure necessary goods from any other seller without agreeing to a similar provision, thus leaving the individual consumer without a choice.
- c. An exculpatory clause releasing a Contracting party from liability for his or her own intentional wrongful acts may be unconscionable.

(Source: WOS 2014-011, September 25, 2014, Section XI)

6.5212 REMEDIES

There are two primary types of remedies for Contract breach. Money damages and equitable remedies, unless otherwise indicated by the parties or subject to any express Contract term to the contrary. The purpose of any remedy is to place the injured party in the position they would have been had the Contract been performed. In determining an appropriate remedy, the Court may consider any of the following:

- A. Specific Performance.** If monetary damages are inadequate, the non-breaching party may seek specific performance. Specific performance is an order by the Tribal Court ordering the breaching party to perform or face contempt charges. Specific performance should be granted only in cases where the subject matter of the Contract is rare or unique such as land, heirlooms or art, or such that monetary damages will not put the non-breaching party in as good a position as performance would have, because there is no available substitute.
- B. Compensatory Damages.** Compensatory damages should be granted for the purpose of putting the non-breaching party in the position he or she would have been had the Contract been performed.
- 1.** Expectation damages are those that reflect the expected benefit of the Contract. Damages should be sufficient for the non-breaching party to purchase substitute performance.
 - 2.** Reliance damages are appropriate when the non-breaching party's damages are too speculative to measure. The non-breaching party may recover the cost of his or her performance, and reliance damages should restore him or her to the same position as if the Contract had never been formed.
 - 3.** Consequential damages are an appropriate remedy for losses resulting from the breach that a reasonable person would have foreseen would occur from a breach at the time of entry into the Contract.
 - 4. Certainty Requirement.** The non-breaching party has the burden of proving to the Tribal Court his or her damages to a reasonable certainty.
- C. Nominal Damages.** Nominal damages may be awarded where a breach is proven but no actual loss can be demonstrated.

D. Liquidated Damages. Parties to a Contract may stipulate what damages are to be paid in the event of a breach. Such liquidated damages, or a liquidated damages clause, are enforceable by the Tribal Court only if the liquidated damages are in an amount that is reasonable in view of the actual or anticipated harm caused by the breach. To obtain liquidated damages, the non-breaching party must prove:

1. That damages for a contractual breach were difficult to estimate or ascertain at the time the Contract was formed; and
2. That the amount agreed on as liquidated damages was a reasonable forecast of compensatory damages in the event of breach.

E. Contracts for the Sale of Land. If specific performance is not appropriate or available, the Court may award compensatory damages measured by the difference between the Contract price and the fair market value of the land.

F. Restitution. Restitution is available where one party has conferred a benefit on the other, with the other party's knowledge and assent, and with the expectation of being compensated. The award of restitution should be measured by the benefit conferred, to prevent unjust enrichment of the party receiving the benefit.

G. Rescission. The grounds for rescission must have occurred either before or at the time the Contract was entered into. Such grounds include:

1. Mutual mistake of a material fact;
2. Unilateral mistake if the other party knew or should have known of the mistake;
3. Unilateral mistake if hardship suffered by the mistaken party is so extreme it outweighs the other party's expectations under the Contract;

4. Misrepresentation of fact or law by either party as to a material factor in the negotiations when that factor was relied upon; and
 5. any other grounds including duress, undue influence, illegality, lack of capacity or failure of Consideration.
- H. Reformation.** Where the written Contract between the parties contains a clerical error or otherwise fails to reflect the actual intent of the parties, the Tribal Court may reform the Contract so that it accurately reflects the intent of the parties.
- I. Mutual Agreement.** The parties to a Contract are free to negotiate their own remedies before entering into the Contract. Additionally, where there is a breach or termination of the Contract, the parties are free to negotiate appropriate remedies at the time of the breach or termination.
- J. Duty to Mitigate Damages.** A party who is injured as a result of a Contract breach has a duty to act reasonably to minimize the harm caused by the breach and the expense to the breaching party.

(Source: WOS 2014-011, September 25, 2014, Section XII)

6.5213 THIRD PARTIES TO THE CONTRACT

A. Third Party Beneficiaries.

1. Categories of Third Party Beneficiaries.

- a. Intended beneficiaries are third parties that have rights under a Contract although they are not a party to the Contract. A person is an intended beneficiary if he or she is expressly designated in the Contract, performance is to be made directly to that person, or that person otherwise has rights under the Contract.

- c. Notice of revocation communicated by the Assignor to either the Assignee or the Obligor;
- d. The Assignor takes performance directly from the Obligor; or
- e. Subsequent assignment of the same right by the Assignor to another person.

6. Rights and Liabilities of the Parties.

- a. The Assignee may enforce his or her rights against the Obligor directly, but may be subject to any defenses that the Obligor had against the Assignor. However, the Obligor may not assert unrelated defenses against the Assignee.
- b. The Assignor impliedly warrants to an assignee for value that:
 - i. The Assignor has the right to make the assignment;
 - ii. The right exists and is not subject to limitations or defenses other than those stated or apparent at the time of the assignment; and
 - iii. The Assignor will do nothing to defeat or impair the assigned right.

C. Delegation of Duties under a Contract.

- 1. In general, all Contractual duties may be delegated to a third person. However, duties may not be delegated under the following circumstances:
 - a. Where the duties involve personal judgment and skill;
 - b. Where a special trust has been reposed;

- c. Where the performance will materially change the expectancy under the Contract; or
 - d. Where the Contract restricts either party's rights to delegate duties.
2. No formalities are required to have effective delegations, except that the Delegator must manifest a present intention to make the delegation.
3. **Rights and Liabilities of the Parties.**
- a. The Obligee must accept performance from the Delegator of all duties that may be delegated.
 - b. The Delegator remains liable on the Contract, even where the delegate expressly assumes the duties.
 - c. The Delegator is not liable if there is a mere delegation. However, where the delegate assumes the duties of the Delegator and the promise is supported by Consideration, the delegate may be subject to liability together with the Delegator.

(Source: WOS 2014-011, September 25, 2014, Section XIII)

6.5214 TRIBAL SOVEREIGN IMMUNITY

- A. Tribal Immunity From Suit.** The Little Traverse Bay Bands of Odawa Indians, including all subordinate entities, is and shall remain immune from suit except to the extent that the Tribal Council clearly and expressly waives the sovereign immunity of the Tribe including all officials and employees of the Tribe who are acting within the scope of their duties or authority.
- B. Proper Approval.** To be effective any waiver of sovereign immunity, including any limited waiver of sovereign immunity, must be expressly granted by the official action of

the LTBB Tribal Council.

(Source: WOS 2014-011, September 25, 2014, Section XIV)

6.5215 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 2014-011, September 25, 2014, Section XV)

6.5216 EFFECTIVE DATE

This Statute is 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 2014-011, September 25, 2014, Section XVI)

Chapter 53. Reserved

Codification Note: The chapter previously located here has been relocated to Title XI at 11.1101

Chapter 54. Reserved

Codification Note: The chapter previously located here has been relocated to Title VIII at 8.801

Chapter 55. *Reserved*

Codification Note: The chapter previously located here has been relocated to Title XV at 15.2301

Chapter 56. Recall of an Official and Leave of Absence

6.5601 PURPOSE

The purpose of this Statute is to provide for paid leave of absence in the case of a recall of an Official in accordance with this Statute.

(Source: WOS 2015-002, February 24, 2015, Section I)

6.5602 DEFINITIONS

- A. **“Leave of Absence”** means a temporary suspension of the Official’s duties and authority.
- B. **“Official”** means Tribal Chair, Vice Chair and/or Tribal Council members

(Source: WOS 2015-002, February 24, 2015, Section II)

6.5603 CONSTITUTIONAL RECALL ELECTION and LEAVE OF ABSENCE

- A. The Tribal Chair, Vice Chair and Tribal Council members may be subject to recall in accordance with the Constitution.
- B. The Official against whom a recall petition has been filed shall continue to perform the duties of his or her office until the preliminary non-certified results of the recall election are posted by the Election Board.
 - 1. If the preliminary non-certified results show that the recall election did not result in the recall of the Official, then the Official shall continue to perform the duties of his or her office; or
 - 2. If the preliminary non-certified results show that the recall election did result in the recall of the Official, then the Official shall be placed on paid leave of absence until

the Election Board certifies the election results, or if there is a challenge to the election, until the Tribal Court issues a ruling indicating that the recall election was valid and did result in the recall of the Official, and the Election Board certifies such results.

- C.** If that Official (or former Official) appeals a decision of the Tribal Court to the LTBB Appellate Court, such Official (or former Official) shall remain on unpaid leave during the pendency of any appeal before the Appellate Court.
- D.** If the LTBB Appellate Court rules that the recall election was not valid, or that the recall election did not result in the recall of the Official, that Official shall be reinstated to his or her office and shall receive back pay for any period of time that he or she has not been paid while on unpaid leave of absence.
- E.** Upon the posting of the certified election results by the Election Board, if the recall election did not result in the recall of the Official, then the Official shall resume performing the duties of his or her office.
- F.** Upon the posting of the certified election results by the Election Board, if the recall election did result in the recall of the Official, then any and all paid leave of absence shall cease.

(Source: WOS 2015-002, February 24, 2015, Section III)

6.5604 IMPLICATIONS OF LEAVE OF ABSENCE

- A.** The Official on paid leave of absence shall receive his or her compensations as set forth by Tribal Statute.
- B.** The Official while on paid or unpaid leave of absence shall have all duties, authority and privileges associated with the Official's position suspended. Such suspension shall include barred access to confidential information, Tribal records, offices, properties, personnel and equipment associated with the position.

(Source: WOS 2015-002, February 24, 2015, Section IV)

6.5605 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 2015-002, February 24, 2015, Section V)

6.5606 EFFECTIVE DATE

Effective upon the 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 2015-002, February 24, 2015, Section VI)

Chapter 57. Reserved

Codification Note: The chapter previously located here has been relocated to Title IX, Chapter 7 at 9.701

Chapter 58. Reserved

Codification Note: The chapter previously located here has been relocated to Title IX, Chapter 6 at 9.601

Chapter 59. Reserved

Codification Note: The chapter previously located here has been relocated to Title XV at 15.2401

Chapter 60. Reserved

Codification Note: The chapter previously located here has been relocated to Title IX, Chapter 11 at 9.1101

Chapter 61. Reserved

Codification Note: The chapter previously located here has been relocated to Title V at 5.601

Chapter 62. Reserved

Codification Note: The chapter previously located here has been relocated to Title VIII at 8.901

Chapter 63. Reserved

Codification Note: The chapter previously located here has been relocated to Title X at 5.801

Chapter 64. Tribal Website Statute

6.6401 PURPOSE

This Statute designates lttbbodawa-nsn.gov as the official website of the Little Traverse Bay Bands of Odawa Indians and directs what documents shall be maintained on the official website. This Statute repeals and replaces the applicable section of Waganakising Odawak Statute 2005-10 and WOS 2013-011, or as amended.

(Source: WOS 2018-008, July 5, 2018, Section I)

6.6402 DEFINITIONS

- A. “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
- B. “Tribal Website” means the LTBB governmental website, lttbbodawa-nsn.gov.

(Source: WOS 2018-008, July 5, 2018, Section II)

6.6403 LTBB WEB-SITE

- A. The following shall be maintained on the LTBB website:
 - 1. LTBB Constitution.
 - 2. Election Board contact information; Election Board meeting schedules and minutes; regulations; policies and procedures; Election schedule; notices; and election results.
 - 3. Executive Branch contact information; proposed and approved regulations; vetoed statutes and resolutions; Executive Directives; budget vetoes or modifications in accordance with the Waganakising Odawak Statute *Tribal Government Budget Formulation and Modification Statute* as currently enacted or amended;

Commission/Committee/Boards meeting schedules and minutes; job postings; bid requests; and postings for nominations of appointed positions.

4. Legislative Branch contact information; Tribal Council work session schedules; regular, special and emergency meeting schedules and minutes; the annual budget calendar; committee meeting schedules and minutes; statutes; proposed statutes for comment; travel reports if applicable; and Tribally Chartered Corporation's meeting schedules and minutes.

5. Judicial Branch contact information; Court weekly docket; Case List Report; Court Opinions; Administrative Rules and Orders; Court Rules; Schedule of fines and fees; public notices and court forms.

6. Prosecutor's Office contact information.

7. Approved intergovernmental agreements and accords.

7. Public notices or documents deemed to be appropriate by any of the branches of Tribal government.

8. Information for requesting public documents.

B. Each governmental branch may include additional information on the LTBB website.

(Source: WOS 2018-008, July 5, 2018, Section III)

6.6404 POSTING TO THE LTBB WEB-SITE

Each governmental branch shall develop policy and procedures that sets forth the process on how documents and items are posted to the LTBB website and shall submit same to Tribal Council for approval within one-hundred and twenty (120) days of enactment of this Statute.

(Source: WOS 2018-008, July 5, 2018, Section IV)

6.6405 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 2018-008, July 5, 2018, Section V)

6.6406 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 2018-008, July 5, 2018, Section VI)

6.6407 OTHER RELATED STATUTES

See WOS 2015-019 Administrative Procedures Act, WOS 2015-016 Tribal Government Budget Formulation and Modification Statute and WOS 2010-009 Public Documents Statute, WOS 2018-xxx Legislative Procedures Act; or as may be amended.

(Source: WOS 2018-008, July 5, 2018, Section VII)