

Chapter 29. Department of Public Works Statute

15.2901 PURPOSE

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

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

15.2902 DEFINITIONS

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

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

15.2903 CREATION OF THE DEPARTMENT

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

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

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

15.2904 AUTHORITY

A. The Department shall have the following authority:

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

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

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

15.2905 DUTY AND AUTHORITY

A. The Department shall have the following duties:

1. To acquire, construct, operate, maintain, promote and expand utility systems furnishing electric, gas, water, sewer, cellular radio and telephone services within the Tribe's Territorial Jurisdiction.
2. To initiate, acquire, operate, maintain, promote and provide, alone or in conjunction with others, services and facilities both within and beyond the boundaries of the Little Traverse Bay Bands of Odawa Indians Territorial Jurisdiction.
3. To provide utility service to the Tribe and its Tribal Citizens at the lowest possible cost consistent with prudent fiscal responsibility.
4. To use the revenues of the Department.

5. Apply for grant funding.

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

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

1. To pay the costs of operations and maintenance.

2. To amortize the loans of the Department.

3. To fund an adequate Renewal and Replacement fund.

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

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

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

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

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

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

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

15.2906 STAFFING

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

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

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

15.2907 REGULATIONS REQUIRED

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

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

15.2908 APPROPRIATIONS AUTHORIZED

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

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

15.2909 SEVERABILITY

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall

be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

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

15.2910 EFFECTIVE DATE

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

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