

## **Chapter 10. Odawa Historical and Cultural Site Registries Statute**

### **8.1001 PURPOSE**

The purpose of this Statute is to establish a public Odawa Historic and Cultural Site Registry where property sites are identified, designated and cataloged as historical and cultural sites while increasing and broadening the public's understanding and appreciation of cultural and historic places; and to establish a non-public Odawa Historic and Cultural Site Registry that helps preserve significant historic and cultural places for future generations.

(Source: WOS 2019-009, August 30, 2019, Section I)

### **8.1002 DEFINITIONS**

- A.** “LTBB” or “Tribe” means the Little Traverse Bay Bands of Odawa Indians.
  
- B.** “Reservation” means all lands within the boundaries of the reservations for the Little Traverse Bay Bands of Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty of 1855, 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands which are not included within the 1855 reservation, plus any lands outside of those boundaries which are now or in the future declared to be Little Traverse Bay Bands of Odawa Indians reservation by the U.S. Department of the Interior.
  
- C.** “Tribal Citizen” means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.
  
- D.** “Tribal Council” or “Council” means the elected body of the Little Traverse Bay Bands of Odawa Indians to carry out legislative powers under Article VII of the Constitution.
  
- E.** “Tribal Culturally Significant Sites” means sites that are currently or in the past used by the Tribe or its Tribal Citizens for gathering of medicines, conducting ceremonies or other tribal activities; or the site is associated with the cultural practices or beliefs of a Tribal community; or the site is closely tied to the cultural identity of the community.

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

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

**H.** “THPO” or “Office” means the Tribal Historic Preservation Office composed of the Tribal Historic Preservation Officer and staff.

(Source: WOS 2019-009, August 30, 2019, Section II)

### **8.1003 NOMINATION PROCESS**

The Tribal Historic Preservation Office may accept a nomination of historic or cultural sites directly from any person or agency, including nominations from the THPO for inclusion in the Odawa Historic and Cultural Site Registry.

(Source: WOS 2019-009, August 30, 2019, Section III)

### **8.1004 DUTIES and AUTHORITY**

**A.** The Office shall have the following duties and authority:

- 1.** To create and maintain a public Odawa Historic and Cultural Site Registry that can be published on the Tribal website and a and non-public Odawa Historic and Cultural Site Registry that preserve location sites for future generations.
- 2.** To evaluate nominations of sites for inclusion into either of the Odawa Historic and Cultural Site Registries.
- 3.** To consult with Elders, Tribal Citizens and other experts as part of the assessment process to determine suitability of a nominated site for inclusion into either of the Odawa Historic and Cultural Site Registries.
- 4.** To acquire reference materials, such as books, and other resources to determine

suitability of a nominated site for inclusion into either of the Odawa Historic and Cultural Site Registries.

5. To develop policy, procedures and standards that maintain uniformity of the sites that are included into either of the Odawa Historic and Cultural Site Registries.

6. To preserve Odawa Historic and Cultural sites that are under the Tribe's ownership or control and assure that a site is not inadvertently demolished, substantially altered, or allowed to deteriorate significantly, except in the case of restoration of a site which is permissible.

7. To evaluate any permit that allow for demolition, substantial alterations, or restoration to an Odawa Historic and Cultural site that is within the Tribe's ownership or control. Such permits shall require approval by the THPO, in accordance with approved regulations.

8. Regulations shall be developed that establishes how permits shall be approved by the THPO, that may include a historical, spiritual or cultural significance impact survey of the site.

(Source: WOS 2019-009, August 30, 2019, Section IV)

#### **8.1005 CRITERIA FOR DESIGNATION**

A. The Office shall use the following criteria to determine the suitability of inclusion of a site into either of the Odawa Historic and Cultural Site Registry:

1. Significance in Odawa history, architecture, archeology, heritage, religion, engineering or culture.

2. Association with events that have made a significant contribution to the broad patterns of Odawa history.

3. Association with the lives of significant or historical Odawa persons.

4. Yielded or may be likely to yield, important information in Odawa history spirituality or culture.

5. Associated with the exercise of Treaty Rights under the 1836 Treaty of Washington, or the 1855 Treaty of Detroit.

**B. Such sites may include:**

1. “Tribal Culturally Significant Sites”.
2. “Tribal Historic Properties”.
3. “Tribal Sacred Site”.
4. Cemeteries, birthplaces, or graves of historical figures.
5. Ceremonial sites.
6. Cultural or quality natural resources sites.
7. Historical landmarks or buildings.
8. Natural resources.

(Source: WOS 2019-009, August 30, 2019, Section V)

**8.1006 SITE REGISTRY**

**A.** Upon receipt of a nomination of a site, the Office shall determine if site is suitable for inclusion into either of the Odawa Historic and Cultural Site Registries.

**B.** The Odawa Historic and Cultural Site Registries shall contain documentation for each site, a physical description of the place, and information about its historical, spiritual or cultural significance, that may be documented by oral histories or stories, a bibliography, photographs, or other means as appropriate.

(Source: WOS 2019-009, August 30, 2019, Section VI)

### **8.1007 NOTICE OF APPROVAL OR DECLINATION**

The THPO shall notify the person who has submitted a nomination for inclusion of a site into either of the Odawa Historic and Cultural Site Registries of the approval or denial within a reasonable time period after the submission of the nomination.

(Source: WOS 2019-009, August 30, 2019, Section VII)

### **8.1008 RECONSIDERATION PROCESS**

Any person who has submitted a nomination to the THPO for inclusion of a site into either of the Odawa Historic and Cultural Site Registries and was denied may ask for reconsideration based on additional or new evidence that support the nomination. The THPO shall have approved policy and procedures that include the appeals process and time-frames.

(Source: WOS 2019-009, August 30, 2019, Section VIII)

### **8.1009 NOTIFICATION TO OWNER OF PROPERTY**

Upon approval of the THPO of inclusion into public Odawa Historic and Cultural Site Registry, the THPO shall notify the owner and/or the person in control of the site of the Registry designation.

(Source: WOS 2019-009, August 30, 2019, Section IX)

### **8.1010 PRIVATE PROPERTY**

Private property listed in the Odawa Historic and Cultural Site Registry does not place any restrictions or requirements on a private property owner. The private landowner is not required to maintain the property in any specific way.

(Source: WOS 2019-009, August 30, 2019, Section X)

### **8.1011 SEVERABILITY**

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2019-009, August 30, 2019, Section XI)

### **8.1012 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 2019-009, August 30, 2019, Section XII)

### **8.1013 OTHER RELATED STATUTES**

See 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.

(Source: WOS 2019-009, August 30, 2019, Section XIII)