WAGANAKISING ODAWAK STATUTE # 2023-017
MARRIAGE

SECTION I. PURPOSE

The purpose of this act is to govern the making of marriages under Tribal law. This statute repeals and replaces Waganakising Odawak Statute 2020-010.

SECTION II. DEFINITIONS

A. "Adult" means a person 18 years of age or older.

B. "Endorsement" means the Marriage Clerk or Deputy Marriage Clerk endorses the marriage license for a proper legal record.

C. "LTBB" or "Tribe" means the Little Traverse Bay Bands of Odawa Indians.

D. "Marriage" means the legal and voluntary union of two persons to the exclusion of all others.

E. "Marriage Clerk" means a person(s) who issues Marriage commissions and endorses Marriage Certificate on behalf of the Little Traverse Bay Bands of Odawa Indians and is responsible for filing and maintaining records under this statute, including Deputy Marriage Clerk(s).

F. "Marriage Commissioner" means a person who has been issued a Marriage commission by the Little Traverse Bay Bands of Odawa Indians.

G. "Reservation" means the areas referenced in Public Law 103-324, 25 U.S.C. §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."

H. "Tribal Citizen" means an enrolled member of Little Traverse Bay Bands of Odawa Indians.

I. "Tribal Court" means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians as defined in the LTBB Constitution.

SECTION III. MARRIAGE AND THE CAPACITY TO MARRY

A. Marriage as a civil contract. To be valid, and for purposes of this law, marriage is a civil contract, to which the consent of parties capable of making it is necessary. Consent alone will not constitute a marriage. A marriage relies upon the issuance of a license, a ceremony solemnizing the marriage, and the endorsement of the marriage certificate.

B. Capacity to consent. A person seeking to be married must fulfill each of the following requirements:

1. Freely consent to the marriage and have the mental capacity to marry;

2. Be at least 18 years of age or older as evidenced by a birth certificate, driver's license, passport, Tribal Enrollment card or other identification documents, be at least 16 years of age as evidenced by a birth certificate, driver's license, passport, Tribal Enrollment card or other identification documents and with the consent of a parent or legal guardian, which consent must be notarized, or has been emancipated by a court of competent jurisdiction;

3. Not have an existing spouse; and

4. Not be blood relatives to each other in any of the following degrees:

a. Parent and child;

b. Grandparent and grandchild;

c. Brother and sister, or half-brother and half-sister;

d. Uncle and niece, or aunt and nephew; or

e. Cousins in the first degree.

SECTION IV. MARRIAGE LICENSES

A. Application for Marriage License. All persons wishing to be married in accordance with this act shall obtain a marriage license from a Marriage Clerk or a Marriage Commissioner. The application to obtain a marriage license shall be in the form of an affidavit and shall contain the following information for each person:

1. Full legal name, including last name before first marriage, if previously married;

2. Home mailing and street address;

3. Age;

4. Sex;

5. Social Security Number;

6. LTBB Tribal affiliation, if applicable;

7. Present age and date and place of birth;

8. If either party was previously married number of times;

9. The names of each person's parents and the place of birth for each parent, if known. For each person's mother, the mother's name before first marriage shall be identified, if known;

10. If either person is a minor, the name and address of the parents, adoptive parent, or guardian of each party; or if emancipated, certified copies of papers granting emancipation;

11. A statement of consent to the civil jurisdiction of the Tribe; and

12. A statement that says "I, we, intend to marry and that this affidavit is made for the purpose of obtaining a marriage license; that each of the above-named persons is not related to the other within the degree prohibited by the Tribe's marriage laws and is of

sufficient mental capacity to contract marriage; that said persons are acquainted with the laws of the Little Traverse Bay Bands of Odawa Indians relative to marriage; that there is no legal impediment to said marriage; and that to the best of knowledge and belief of the undersigned all of the foregoing statements are true."

B. Authority of Marriage Clerk to issue marriage licenses.

1. A Marriage Clerk or Marriage Commissioner shall have the power to issue a marriage license.

2. A Marriage Clerk or Marriage Commissioner shall issue a marriage license upon validation of the following:

a. A properly-completed affidavit for a marriage license;

b. Payment of a reasonable license and processing fee; and

c. A statement of consent to the civil jurisdiction of the Tribe.

C. Validity of License. A marriage license shall be valid for 30 days from the date of issuance.

SECTION V. SOLEMNIZATION OF MARRIAGE

A. Qualification to perform marriages.

1. The following persons shall be qualified to perform marriages under this statute:

a. A medicine person or traditional spiritual leader;

b. Clergymen duly designated by the governing body of his or her faith as having the authority to perform marriages;

c. A Tribal Court Judge of the Tribal Court or Justice of the Tribal Court of Appeals;

d. The Tribal Chairperson;

e. A Tribal Judge of a Court of another federally recognized Tribe who is authorized by Tribal law to perform marriages;

f. A Tribal Notary; and

g. Any person who is deemed qualified by the persons being married.

B. Permissible location. A marriage performed in accordance with this act shall be solemnized within the Reservation.

C. Examination of marriage license. Prior to the marriage ceremony, the person performing the ceremony shall review the marriage license and determine that the persons seeking to be married are the persons named on the license. For that purpose, the person performing the ceremony may administer oaths and examine the identification of the persons seeking to be married.

D. Marriage ceremony. A marriage ceremony performed under this act need not take any particular form, but the persons seeking to be married must declare in the presence of the person performing the ceremony, and in the presence of two adult witnesses, that they receive each other as spouses. After the ceremony, the person who performed the marriage ceremony shall sign the marriage license with a statement that shall include their name, address, and if applicable title; date and place of the ceremony; and the names of two witnesses. The two witnesses shall also print and sign the marriage license.

SECTION VI. PROCEDURE FOR RECOGNITION OF MARRIAGES AFTER SOLEMNIZATION

A. Return of fully-executed marriage license to the Marriage Clerk. Following the marriage ceremony, the marriage affidavit, and the fully executed marriage license shall be

returned to the Marriage Clerk within seven days for endorsement.

B. Endorsement of marriage license by Marriage Clerk. The Marriage Clerk must endorse upon each copy its date of receipt.

C. Marriage Clerk issuance of marriage certificate. Upon receipt of a fully-executed marriage license and the original marriage license affidavit, the Marriage Clerk must examine the affidavit, the license, and the signatures of the witnesses and the person performing the marriage to ensure that the information appearing is complete and that the marriage was performed in accordance with the provisions of the license. Upon a determination that the affidavit, the license, and the signatures are in proper form, and that there has been compliance with the terms of the license, the Marriage Clerk shall endorse its certification upon the license, and deliver a copy of the marriage license to the persons for whom it was issued. The endorsement must be completed to ensure a proper legal record of marriage.

D. Storage of marriage records. The Marriage Clerk shall file the certified marriage license of marriage together with the application and affidavit for marriage license with the permanent records of the Tribe.

E. Obtaining certified copies of marriage certificate. Should the parties to any marriage performed under the auspices of these provisions desire that a marriage certificate be filed or recorded in another jurisdiction, they may obtain certified copies from the Marriage Clerk at a fee not to exceed $25.00.

SECTION VII. MARRIAGE COMMISSIONER

A. Qualifications. The Marriage Clerk shall issue a Marriage commission to any qualified person who submits an application in accordance with this statute. The Marriage Clerk may charge a reasonable application fee. A person qualified for a Marriage commission shall be:

1. A citizen of the Little Traverse Bay Bands of Odawa Indians;

2. A registered Tribal Notary of the Little Traverse Bay Bands of Odawa Indians;

3. A legal resident of the United States;

B. Application Materials. Every application for a Marriage commission shall be made on forms determined by the Marriage Clerk that shall include:

1. The applicant's name as it appears on their Notary Commission;

2. The applicant's residence address and telephone number;

3. A declaration that the applicant is a citizen of the Little Traverse Bay Bands of Odawa Indians and documentation of proof;

4. A declaration that the applicant is a citizen of the United States or proof of the applicant's legal residency in this country;

5. Documentation that the person is a registered Tribal Notary of the Little Traverse Bay Bands of Odawa Indians;

6. An application fee;

7. Such other information as the Marriage Clerk may deem appropriate.

8. A statement that says "I certify, with my signature below, that I have read the Marriage Statue and understand the required marriage license process."

C. Application Denial. The Marriage Clerk shall deny an application based on any of the following:

1. Submission of an official application containing material misstatement or omission of fact; or

2. Revocation or suspension of their Little Traverse Bay Bands of Odawa Indians Tribal Notary status.

D. Application Appeal. Denial of an application may be appealed by filing in proper form with the Tribal Court within 30 days after denial, except that an applicant may not appeal when the Marriage Clerk 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. Upon receipt of valid Marriage commission issued by the Little Traverse Bay Bands of Odawa Indians Marriage Clerk, such person shall be designated as a "Marriage Commissioner" and shall be authorized to perform the applicable functions of this statute.

F. **Jurisdiction and Term.** A person commissioned as a Marriage Commissioner shall have a six-year term, unless the commission is earlier revoked for "Official Misconduct," resigned or surety bond has expired.

G. "Official Misconduct" means:

1. A Marriage Commissioner'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 marriage commission; or

2. A Marriage Commissioner's performance of an official act in a manner found by the Marriage Clerk and/or the Tribal Court to be negligent or against the public interest.

SECTION VIII. RECOGNITION OF FOREIGN MARRIAGES, AFFIRMANCE OF PAST TRIBAL COURT MARRIAGES

A. **Recognition of foreign marriages.** The Little Traverse Bay Bands of Odawa Indians shall recognize as valid and binding any marriage formalized or solemnized in compliance with the laws of the place of formalization or solemnization.

B. **Prior Tribal Court Marriages.** The Little Traverse Bay Bands of Odawa Indians affirms the validity and binding nature of all prior marriages performed in accordance with the Tribe's marriage laws then in effect.

SECTION IX. SEVERABILITY

In the event that any phrase, provision, part, paragraph, subsection or section of this statute is found by a court of competent jurisdiction to violate the Constitution, laws, ordinances or statutes of the Little Traverse Bay Bands of Odawa Indians, such phrase, provision, part, paragraph, subsection or section shall be considered to stand alone and to be deleted from this statute, the entirety of the balance of the statute to remain in full and binding force and effect.

SECTION X. 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.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on September 28, 2023 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Kiogima	X			
Tamara Munson	X			
William Ortiz	X			
Aaron Otto	X			
Melissa Pamp	X			
Jordan Shananaquet	X			
Leroy Shomin	X			
Emily Proctor	X			
Marcella Reyes	X			

Date: 10/03/23 Marcella R. Reyes

Marcella Reyes, Legislative Leader

Date: 10/03/23 Emily Proctor

Emily Proctor, Tribal Council Secretary

Received by the Executive Office on 10/03/2023 by [illegible]

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 10-10-2023 Regina Gasco Bentley

Regina Gasco Bentley, Tribal Chairperson

Received from the Executive on 10.10.2023 by [illegible]