

**TRIBAL ELECTIONS REGULATIONS**  
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**I. Purpose.** The Election Board conducts all general and special elections and adopts rules and regulations governing elections. These Regulations repeal and replace all previous Regulations adopted by the Election Board.

**II. Authority.**

- A. The Election Board is an independent entity created by the Constitution and shall be adequately funded to fulfill its purposes.
- B. The Election Board shall have the authority to employ its own staff to fulfill its duties.
- C. The Election Board shall prepare an annual budget based on its needs to fulfill its duties and present it directly to the Tribal Council for funding.
- D. The Election Board shall conduct all general and special elections.
- E. The Election Board shall adopt rules and regulations governing elections. These rules may be amended as needed. However, no amendments to such rules and regulations can take effect while an Election is in progress. Such rules shall be posted on the Tribal website and in the Administrative/Governmental Building.
- F. The Election Board shall adopt rules and regulations governing Regular, Special and Emergency meetings, minutes and phone polls. These rules may be amended as needed. However, no amendments to such rules and regulations can take effect while an Election is in progress. Such rules shall be posted on the Tribal website and in the Administrative/Governmental Building.

**III. Election Regulations.** These regulations govern elections, requirements, qualifications, and general rules and proceedings in accordance with the mandate of the Constitution.

**IV. Jurisdiction.** These regulations shall apply to all LTBB lands whether held in fee or in federal trust, and to any person(s) under the jurisdiction of LTBB.

V. **Definitions.**

- A. **Business Day:** Means any day of the week that the Tribal Administrative/Governmental Offices are open to conduct business.
- B. **Calendar Year:** Means the period of time beginning on January 1 and ending on December 31.
- C. **Calendar Days and Days:** Means the period of time from midnight to midnight.
- D. **Candidate Teams:** Means the Chair and Vice Chair candidates running together per section VI B.
- E. **Certified Signatures:** Means the signatures that can be verified with the signatures on file with the Tribal Enrollment Department, or, Voter Registration forms on file with the Election Board, or power of attorney and/or guardianship signatures. The Election Board may take personal verification of signatures from individuals.
- F. **Constitution:** Means the Constitution adopted on February 1, 2005, by the Tribal citizenship of Little Traverse Bay Bands of Odawa Indians.
- G. **Election Board Policies and Procedures:** Means the guidelines established by the Election Board in exercise of its regulatory authority to determine the procedures to conduct elections and in general to regulate all activities of the Election Board.
- H. **Election Date:** Means the scheduled date for a General or Special Election to take place. This is the date when ballots are officially collected. A reference to the "day of the election" also means Election Date.
- I. **Election in Progress:** In the case of a General or a Special Election, means the period of time between the date the Election Notice is posted and the date the election has been certified by the Election Board. In the case of a *Referendum Election*, means the period of time between the date the affirmative vote of six (6) Council members decide to submit any proposed or enacted statute to a vote at a referendum election and the date the Election Board certifies the results of the election. In the event of an *Initiative*, means the period of time between the date the Election Board has

completed the examination of the submitted Initiative for its technical sufficiency and clarity and the date the Election Board certifies the results of the election, or upon expiration of the deadline to submit changes to the language of the proposed initiative, or upon the expiration of the deadline to submit the minimum signatures required by the Initiative petition. Finally, in the case of a *Recall Election*, means the period of time between the date the Election Board certifies the validity of the petition and signatures and the date the Election Board certifies the results of the election.

- J. **Election Notice:** Means the official notice that an election will be held on the Election Date as established by the Election Board.
- K. **General Election:** Means the election of Tribal Council members every two (2) years and the Tribal Chairperson/Vice Chairperson every four (4) years, held on the last Monday in June of every odd-numbered year.
- L. **Immediate Family:** Means wife, husband, son, daughter, mother, father, brother, sister, stepmother, stepfather, stepbrother, stepsister, father-in-law, mother-in-law, child and stepchild, grandmother, grandfather, brother-in-law and sister-in-law. However, a conflict of interest exists not only when an immediate family member is involved in making a decision or enforcing an action that would in any way affect another immediate family member, but also when the decision maker or action enforcer and the affected individual are related as son or daughter-in-law, or any of the individuals affected by the decision or action are, at the time the decision or action is made or enforced, members of the same household.
- M. **Initiative:** Means an election held pursuant to Article XIV of the Constitution.
- N. **Majority:** Means a fifty percent (50%) plus one of the votes cast in an election. In elections for Tribal Council and Tribal Chairperson/Vice Chairperson the winner is determined by the highest number of votes received by an individual.
- O. **PL 103-324:** Means "The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act" as signed into law on September 21, 1994.

- P. **Poll Official:** Means an Election Board Member or any other appointee to the Election Board serving at the polls on Election Day.
- Q. **Poll Sitters:** Means the persons who by contractual agreement with the Election Board observe the activities of the election process at the polling place on the day of the election. They shall not interfere in any way with the proceedings. Poll Sitters must not be Tribal Citizens or immediate family members of a candidate.
- R. **Poll Watchers:** Means the persons designated by each candidate or sponsor on each initiative at any election who are allowed to observe the counting of the ballots at the polling place on the day of the election on behalf of the candidate(s) or sponsor(s).
- S. **Polling Place:** Means the location designated by the Election Board where the counting of ballots will take place.
- T. **Qualified Voter:** Means all citizens of the Tribe eighteen (18) years of age or older at the time of election.
- U. **Referendum Election:** Means an election held pursuant to Article XIV of the Constitution.
- V. **Registered Voter.** Means a Qualified Voter of the Tribe who has a Voter Registration Form on file with the Election Board ninety (90) days before the day of the election.
- W. **Rejected Ballot:** Means a ballot in which the intention of the voter cannot be determined, or that is cast for a candidate who appears in the ballot, but who has withdrawn in accordance with section XIII A 8 below and the proper Notice of Withdrawal has been mailed to the Registered Voters.
- X. **Replacement Ballot:** Means a second ballot provided to the voter in the event of a lost or spoiled ballot.

- Y. **Special Election:** Means elections called by the Election Board when required under the Constitution or appropriate laws of the Tribe. This definition includes Referendum, Initiative and Recall Elections.
- Z. **Split Ballot:** Means a ballot cast only in one race but not the other.
- AA. **Spoiled Ballot:** Means a ballot that has markings other than those meant to be on the ballot, such as double votes, wrong ink, additional marks, which makes the voter's intention unclear, or a ballot cast for a candidate whose name has been withdrawn from the election and the proper Notice of Withdrawal has been sent.
- BB. **Submission to Election Board:** Means the submission to the Election Board of any materials in accordance with the Constitution and these Regulations, with the exception of petitions protesting the results of an election, which shall be submitted to the Tribal Court.
- CC. **Tribe:** Means The Little Traverse Bay Bands of Odawa Indians.
- DD. **Tribal Citizen:** Means an enrolled member of the Little Traverse Bay Bands of Odawa Indians.
- EE. **Valid Ballot:** Means a ballot in which the intention of the voter is clear beyond any other interpretation as to the intent of the voter.
- FF. **Verified Count:** Means the tabulated number of ballots after a recount has taken place.
- GG. **Voter Registration Form:** Means the form approved by the Election Board containing both the signature of the voter and the signature of a notary public or a legible copy of any of the following forms of identification: a valid Tribal Identification Card, state-issued Driver's License, state-issued Identification Card, or Passport, provided such identification bears the signature of the Tribal citizen.

## **VI. General and Primary Elections**

**A. General Election.** The members of the Tribal Council, Chairperson/Vice-Chairperson shall be elected by popular vote at a General Election as stated in the Constitution. The General Election shall be held the last Monday in June every two (2) years for the purpose of electing the Tribal Council members whose terms are expired and the Tribal Chairperson/Vice Chairperson every four (4) years. In the event of extraordinary circumstances beyond the Election Board's control, rendering the holding of the election impossible, the Election Board may postpone the Election Date until such event subsides.

### **A. Primary Election**

1. If more than two (2) Candidate Teams successfully petition to run for Chairperson and Vice-Chairperson, a primary election shall be conducted to reduce the number of Candidate Teams in the general election to two (2). Similarly, if more than two (2) candidates per open seat at the Tribal Council successfully submit candidacy petitions for office, a primary election shall be conducted to reduce the number of candidates to two (2) per open seat.
2. In the event that a Primary Election is required under this Section, the Primary Election shall be conducted no less than forty-five (45) days prior to the General Election. Since voting is done via U.S. mail, ballots for the Primary Election shall be mailed no later than seventy-five (75) days prior to the General Election.
3. If a Primary Election is required under this Section, the schedule for the distribution of the Notice of Election and candidate filing dates shall be set to coincide with the scheduled date of the Primary Election.

## **VII. Special Elections**

### **A. Referendum**

1. The Tribal Council may decide by an affirmative vote of six (6) Council members to submit any proposed or any enacted statute to a vote of registered Tribal voters at a Referendum Election.
2. Referendum Elections shall be held no sooner than forty-five (45) days and no later than ninety (90) days from the date the proposed or existing statute is referred to the Election Board.

3. The date of the Referendum Election shall be set by the Election Board.
4. A Referendum proposal shall be enacted by the vote of a majority of those actually voting, provided that at least twenty percent (20%) of the registered voters of the Little Traverse Bay Bands of Odawa Indians who were registered on the day it was referred by the Tribal Council to the Election Board cast ballots in said election. If less than twenty percent (20%) of the registered voters of the Tribe casts ballots in said election, the Referendum shall be deemed as defeated.
5. The Election Board shall establish the regulations regarding petition procedures and signature verification for any Referendum.

#### **B. Initiative**

1. Initiative is the power of the Tribal citizens to propose laws and to enact or reject them in an election. The citizens of the Little Traverse Bay Bands of Odawa Indians shall have the power to adopt, by Initiative, any statute, and the power to repeal or amend any statute in accordance with the provisions stated in the Constitution. Statutes addressing appropriations for Tribal institutions or statutes establishing the Tribal budget shall be exempt from the Initiative process.
2. The proponents of an Initiative shall submit it to the Election Board for examination of its compliance with the Constitution. If the Initiative does not involve a statute that addresses appropriations for Tribal institutions or statutes establishing the Tribal budget, the Election Board will examine the technical sufficiency of the proposed Initiative and shall make sure the language is clear before it is circulated. The Election Board shall deliver its written comments to the proponents within thirty (30) days from the date the Initiative was submitted for examination. In order for the Initiative to meet the technical sufficiency threshold it must comply with the format requirements of every Tribal statute. The Initiative meets the clarity assessment if the proposed Initiative can be understood and does not present inconsistencies and/or contextual contradictions.
3. Initiative petitions must be signed by a number of registered voters equaling no less than twenty percent (20%) of the registered voters who voted in the last General Election. After the signatures have been verified by the Election Board, the Election Board shall schedule an election.
4. If a General Election is scheduled to be held less than twelve (12) months from the date the Election Board has verified the Initiative petition, the Initiative will be scheduled for a vote at that General Election. If the next General Election is

scheduled for a time more than twelve (12) months after the verification, a Special Election shall be scheduled.

5. An Initiative proposal shall be enacted by the vote of a majority of those actually voting; provided that at least twenty (20%) of the registered voters who were registered on the day the Initiative proposal was submitted cast ballots in said Special Election. If less than twenty percent (20%) of the registered voters of the Tribe cast ballots in said election, the Initiative shall be deemed as defeated.
6. If an Initiative is defeated in an election, the same matter cannot be the subject of an Initiative Election for a minimum of two (2) years from the date it was defeated.

### **C. Recall**

1. The Chairperson, Vice Chairperson or Tribal Council Members may be subject to recall at any time under the procedure established by the Constitution.
2. All Recall petitions presented to the Election Board must be signed by a number of registered voters equaling no less than twenty (20%) of the number of registered voters who voted in the last General Election. All Recall petitions must be filed on forms approved by the Election Board. Within ten (10) business days of receipt of the petition, the Election Board shall either certify the validity of the Recall petition and signatures or return it to the citizen who submitted it with a written explanation of the defect(s).
3. A Recall Election shall be scheduled by the Election Board within ninety (90) days upon verification of the petition and its signatures. The elected official shall be recalled upon a majority vote if at least thirty percent (30%) of the registered voters vote in the Recall Election.
4. To provide for continuity of governance, no more than four (4) Tribal Council members shall be subject to a Recall Election at any one time. If Recall petitions for more than four (4) Tribal Council members are filed, the Election Board will qualify the petitions based on their order of filing, stopping once the fourth petition has been validated.
5. Each elected official may be subject to no more than one (1) recall election per calendar year.
6. Recall petitions expire ninety (90) days from the date of issue. Expired petitions shall be returned to the Election Board. Petitions will be numbered and will indicate the date of issue and the date of expiration.

## **VIII. Candidate Qualifications**

- A. A candidate for an elected office must be an enrolled Tribal citizen eighteen (18) years of age or older at the time of election.
- B. No candidate to the office of Tribal Council, Chairperson or Vice Chairperson shall be qualified to serve within seven (7) years of completion of a sentence or probation after being convicted of a felony, unless such conviction has been vacated or overturned. The Election Board shall insure the person seeking the candidacy nomination meets this requirement by running the proper background checks in a manner such that the privacy of the person and the confidentiality of the information sought are guaranteed.

## **IX. Call to Election Notice**

- A. The Election Board shall post the deadline for petitions, the date of the election and all other pertinent information affecting the candidates in the Odawa Register, in Tribal governmental office buildings, and in other readily available methods of publication, such as the Tribal Newsletter. Notice of the election schedule shall be provided within fifteen (15) days of the petitions having been certified.
- B. The Election Board shall also give notice to Tribal citizens at the Annual Membership meeting prior to an election year so candidates can meet the required deadlines. Notice can be included within the report given by the Election Board Chairperson or through any written report issued instead of or concurrent with an oral presentation.

## **X. Registration and Voting**

- A. Registration
  - 1. Only registered Tribal Citizens are allowed to vote in an election. Each Tribal Citizen who desires to vote in an election must have a Voter Registration Form on file with the Election Board ninety (90) days before the day of the election.

2. The Voter Registration Form shall be in a format approved by the Election Board.
3. The Voter Registration Form must be signed by the Tribal Citizen containing both the signature of the voter and the signature of a notary public or a legible copy of any of the following forms of identification: a valid Tribal Identification Card, state-issued Driver's License, state-issued Identification Card, or Passport, provided such identification bears the signature of the Tribal citizen.
4. It is the responsibility of each Tribal Citizen who wishes to vote in an election to ensure that he or she has submitted a Voter Registration Form to the Election Board.
5. Any voter who changes his or her name shall submit a new Voter Registration Form to the Election Board.
6. Based on the Voter Registration Forms submitted to the Election Board, the Election Board shall keep a roster of voters known as the "Voter Registration List" with voters listed in alphabetical order or as nearly so as possible. The Election Board shall update the Voter Registration List as Voter Registration Forms are submitted.
7. Since voting is done via U.S. mail, the voter address on record is very important. Any voter who changes his or her address shall promptly submit a Change of Address request with the Enrollment Department.

#### B. Voting

1. Voting shall be done by secret ballot mailed via U.S. first class/bulk mail to all Tribal Citizens registered to vote per subsection (A) above.
2. All ballots shall be sent with a self-addressed stamped return envelope.
3. All ballots mailed to the Election Board must be received at the designated office of the U.S. Postal Service in Michigan no later than 4:00 p.m. on the Election

Date or hand delivered to the Polling Place by 6:00 p.m. Ballots may be hand delivered to the Polling Place on the Election Date only.

4. No voter shall cast more than one ballot in any election.
5. Ballots that contain a write-in candidate will be considered null and void.
6. Replacement ballots will be available upon request by mail, or at the polling place on the day of the election. Only one ballot per voter will be counted in the final results.
7. No person who has been judicially determined to be mentally incompetent may register, remain registered, or vote unless the disability has been removed. A copy of a Court disposition declaring such incompetence will be the only accepted means to prove whether the disability still exists or has been removed.

#### **XI. Counting, Posting, and Certification of Results**

- A. **Ballot Counting.** All ballots will be opened, counted, and recorded by the Election Board in an open meeting. In the event of a split ballot, only the vote for the race cast will be counted.
- B. **Posting of Preliminary Non-Certified Results.** The Election Board shall post preliminary non-certified election results within three (3) business days from the election date in the Tribal offices. These results may also be posted within the same time in the next issue of the Tribal newsletter, on the Tribal website or in any other visible and accessible place designated by the Election Board.
- C. **Certification of Election Results.** The election shall be certified by the Election Board by 5:00 p.m. on the tenth (10th) business day after the closing of the polls, provided the Election Board has not been served notice of any unresolved challenges pending. The certified results shall be posted by the Election Board on the Tribal website and in the Administrative/Governmental Building offices. These results may also be posted within the same time, in the next issue of the Tribal newsletter, on the Tribal website or in any other visible and accessible place designated by the Election Board.

D. Challenges of Election Results. Any registered voter of the Tribe may challenge for cause the results of any election by filing a written challenge with the Tribal Court within ten (10) days after the Election Date. The Tribal Court shall act on a challenge to any election within twenty (20) days of receiving the challenge in Tribal Court. To that effect the Tribal Court must schedule a hearing to show cause within 20 days of the challenge being filed. A disposition on the challenge shall be made within 30 days from the date of the scheduled hearing.

E. Retention of Ballots

1. The Election Board shall retain all valid ballots in sealed containers.
2. Ballots that were determined not to be valid during the election process shall be retained separately from valid ballots.
3. Upon certification of election results, both valid and non-valid ballots will be retained in secure containers for at least one year.

F. Disclosure of Public Documents. The Election Board shall obey any Statute or Rule as it applies to disclosure of public documents.

**XII. Nomination Procedures, Election Date Procedures, Recount and Announcement of Results - Run-off Election**

A. Nomination Procedures

1. Nominations for candidates are placed on Petition Forms developed by the Election Board.
2. Candidates must meet the Candidate Qualifications stated in section VIII, A and B, and the Registration and Voting requirements stated in section X, A.
3. The Nomination Petition Forms shall contain the signatures and Tribal enrollment numbers or birth dates of at least twenty five (25) registered voters.

4. A registered voter may sign more than one Nomination Petition.
5. A packet containing nomination petitions will be prepared and mailed by the Election Board to all citizens registered to vote at least one hundred thirty-four (134) calendar days prior to the election. Candidates shall submit a written statement on a form prepared by the Election Board and any other documentation duly requested along with their Nomination Petition.
6. Nomination Petitions Forms must be submitted to the Election Board no less than one hundred four (104) calendar days prior to the Election Date.
7. The Election Board shall review and validate all Petitions received within the time specified in number 6, above, and shall prepare a final list of candidates no later than ninety (90) calendar days prior to the Election Date.
8. Candidates wishing to withdraw their names will do so in writing no less than forty-five (45) calendar days prior to the Election Date. Failure to do so will result in their names appearing on the ballot. At the discretion of the Election Board the candidate will be assessed the cost of mailing a Notice of Withdrawal to all registered voters in the event he or she withdraws his/her candidacy once his/her name is already in the ballot.
9. The Election Board shall prepare the election ballots and mail them to all registered voters no less than thirty (30) calendar days prior to the Election Date.
10. Names on the ballots will appear in the order in which their Nomination Petition was received.
11. The spelling of names shall appear on the ballot as they are printed on the Nomination Petition Form.
12. Election Board members are prohibited from signing any Nomination Petition Form. Their signatures can only appear in exercise of their duly established functions during the petition validation process.

13. Two Election Board members shall sign, time and date all Petitions after the validation process.

#### B. Election Date Procedures

1. Polls open at 9:00 a.m. at a place designated by the Election Board and announced to the citizenship through the Election Notice.
2. The Election Board Chairperson or Election Board Vice-Chairperson and another member of the Election Board and a Tribal Police Officer go to the Post Office to retrieve the ballots at 9:00 am.
3. The ballots are brought back to the polling place, removed from the envelopes, and placed in the ballot box.
4. The envelopes are counted and the Tribal citizen number written on the outside of the envelope is recorded by the Election Board.
5. The ballots are opened and counted. The result of the counting is recorded by the Election Board. The Election Board may use electronic means to count the ballots.
6. At 4:00 p.m., the Election Board Chairperson or Election Board Vice-Chairperson and another member of the Election Board and a Tribal Police Officer leave to make the final pick-up from the Post Office.
7. These ballots are then processed as described above.
8. Polls close at 6:00 p.m. and the counting and recording continue until all the ballots are recorded and counted.
9. Ballots will not be accepted after 6:00 p.m. Eastern Standard Time (EST).

#### C. Recount

1. In the event that at the completion of the canvas of any election the count reveals that any two candidates have received the same number of votes in a particular contest, the Election Board will conduct a recount of the ballots cast in that contest. The Election Board has the authority to either utilize the same machine, a second machine (if one is available), or to complete the recount through a hand count. Should a tie still exist at the completion of the recount, the Election Board will conduct a special run-off election limited to the tied candidates only if breaking such tie will affect the outcome of the election. Such a run-off election shall be immediately noticed to be held not more than forty-five (45) days from the Election Date the tie occurred.
2. In the event that at the completion of the special run-off election a tie still exists, the winner will be determined by the flipping of a coin under the supervision of the Election Board and in the presence of Poll Sitter(s) and Poll Watcher(s).
3. The same procedure will be followed for a tie in an Initiative or a Referendum Election.
4. Any election that ends with a margin of less than one percent shall be subject to a recount. The purpose of the recount is to reach a verified count of the ballots cast in the election. In order to do that, the Election Board has the authority to either utilize the same machine, a second machine (if one is available), or to complete the recount through a hand count. The Election Board will verify the new count and will issue the results of the recount as preliminary non-certified results. The Election Board must in all recount situations provide assurances regarding the fidelity of the process by allowing Poll Sitters, Poll Watchers and/or the involved candidates, if available, to be present at any recount. An affidavit signed by the Chairperson of the Election Board will attest to the efforts made to assure the fidelity of the recount process and will contain the names of the people present at the recount.
5. Elections that end with a margin of one percent or greater shall not be subject to a recount except in cases where a candidate has shown the Tribal Court credible evidence of fraud that would change the election results.

6. Any contest involving a recount of the votes cast with a margin of one percent or greater shall be done at the expense of those requesting such a recount for a non-refundable fee of \$500.00. In the event that the outcome of the election has been changed as a result of the recount the \$500.00 shall be refunded.
7. Any recounts or requests for recounts must occur before the certification of the election.

**D. Announcement of Results - Run-off Election.** The same procedures as stated in section XII A, B and C will be followed when circumstances warrant a run-off election.

### **XIII. Poll Sitters and Poll Watchers**

- A. Poll sitters are persons who by contractual agreement with the Election Board observe the activities of the election process at the polling place on the Election Date. They shall not interfere in any way with the proceedings. Poll Sitters must not be Tribal Citizens or immediate family members of a candidate. Any irregularity found by the Poll Sitters may be stated in a written affidavit issued after the preliminary non-certified results have been published. The affidavit containing the observations of the Poll Sitters must be submitted to the Election Board with a copy to the Tribal Council secretary.
- B. Poll Watchers are the persons designated by each candidate or sponsor on each initiative at any election who are allowed to observe the counting of the ballots at the polling place on the day of the election on behalf of the candidate(s) or sponsor(s). Each candidate or sponsor of each initiative at any election shall submit to the Election Board the name(s) of any Poll Watcher(s) on an Election Board approved form at least 3 days prior to the Election Date. They shall not interfere in any way with the proceedings. Memorialization and handling of any observed irregularity by the Poll Watchers is left to each candidate and sponsor.

**XIV. Amendments.** No amendments to these Regulations can take effect while an Election is in Progress.

**XV. Savings Clause.** In the event that any phrase, provision, part, paragraph, subsection or section of these Regulations if found by a court of competent jurisdiction to violate the Constitution, statutes 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 these Regulations The entirety of the balance of the Regulations shall remain in full and binding force and effect.

**XVI. Effective Date.** Effective upon Certification of Approval by the Election Board and Tribal Council's repeal of the Waganakising Odawak Statute 2010-019.

### CERTIFICATION OF APPROVAL

As Chairperson and Secretary of the Election Board of the Little Traverse Bands of Odawa Indians, we certify that at a duly-called meeting of the Election Board held on November 16, 2012 these Tribal Elections Regulations were approved by a vote of 5 in favor, 0 opposed, 0 abstentions, and 0 absent.

Date: 11/16/12

Jon A. Shawa  
Jon Shawa, Election Board Chairperson

Date: 11-16-2012

Carol Quinones  
Carol Quinones, Election Board Secretary