

1 **WAGANAKISING ODAWAK STATUTE #**  
2 **Constitutionally Mandated Qualifications of Tribal Chair, Vice-Chair and Tribal**  
3 **Council Members Statute**  
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6 **SECTION I. PURPOSE**  
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8 The Little Traverse Bay Bands of Odawa Indians Constitution sets forth that it is the  
9 supreme law over all territory and persons subject to the jurisdiction of the Little Traverse  
10 Bay Bands of Odawa Indians. To ensure the integrity of the Tribe’s elected officials, the  
11 Constitution sets forth qualifications for an elected office who are sworn into office.  
12 This Statute provides the civil power and authority to the Tribal Prosecutor to pursue  
13 cases of violations of the Constitutionally Mandated Qualifications of Tribal Chair, Vice-  
14 Chair and Tribal Council Members Statute.  
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17 **SECTION II. DEFINITIONS**  
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19 **A.** “Felony” means a crime defined by the Tribe’s criminal code as a felony or;  
20 Rape or; Sexual assault against an individual who has not attained the age of 16 years or;  
21 any other crime that is listed by the Major Crimes Act, Title 18, United States Code,  
22 Section 1153 paragraph A. “(a) Any Indian who commits against the person or property  
23 of another Indian or other person any of the following offenses, namely, murder,  
24 manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with  
25 intent to commit murder, assault with a dangerous weapon, assault resulting in serious  
26 bodily injury (as defined in section 1365 of this title), an assault against an individual  
27 who has not attained the age of 16 years, arson, burglary, robbery, and a felony under  
28 section 661 of this title within the Indian country, shall be subject to the same law and  
29 penalties as all other persons committing any of the above offenses, within the exclusive  
30 jurisdiction of the United States.”  
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32 **B.** “Reservation of the Little Traverse Bay Bands of Odawa Indians” means all  
33 lands within the boundaries of the reservations for the Little Traverse Bay Bands of

1 Odawa Indians as set out in Article I, paragraphs third and fourth of the Treaty of 1855,  
2 11 Stat. 621, plus any lands set out in Articles Second and Third of the Treaty of March  
3 28, 1836, 7 Stat. 491, in the event that the 1836 reservation is determined to include lands  
4 which are not included within the 1855 reservation, plus any lands outside of those  
5 boundaries which are now or in the future declared to be Little Traverse Bay Bands of  
6 Odawa Indians reservation by the U.S. Department of the Interior.

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8 **C.** “Tribal government” or “Tribal Governmental Administration” means Executive  
9 Branch Departments, offices, programs, Commissions, Committees and Boards;  
10 Legislative Branch offices; Judicial Branch offices and court; Prosecutor and  
11 Prosecutor’s offices; and Election Board and Election Board offices.

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13 **D.** “Tribal enterprises” means Tribally Chartered Corporations, Non-gaming and  
14 gaming Enterprises, Limited Liability Corporations, and other business or economic  
15 development entities.

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18 **SECTION III. POWER AND AUTHORITY**

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20 Tribal Prosecutor shall have the power and authority, on behalf of the Tribal membership  
21 as a whole, to prosecute violations of this Constitutionally Mandated Qualifications of  
22 Tribal Chair, Vice-Chair and Tribal Council Members Statute, and to sign, file and  
23 present any and all complaints, subpoenas, affidavits, motions, process and papers of any  
24 kind and to appear before the Tribal Court.

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27 **SECTION IV. CONSTITUTIONALLY MANDATED QUALIFICATIONS**

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29 **A.** In order to remain qualified to hold the office of a Tribal Council member, a  
30 person must meet and maintain the following constitutionally mandated  
31 qualifications:

- 32  
33 **1.** Members of the Tribal Council shall be a Little Traverse Bands of Odawa

1 Indians member, and be at least eighteen (18) years of age.

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3 **2.** Shall not be employed by the Little Traverse Bay Bands of Odawa Indians  
4 Tribal government or the Tribal Governmental Administration, but may work in  
5 other Tribal enterprises but shall not have a vote on any issue.

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7 **3.** Shall not be a paid consultant for the Little Traverse Bay Bands of Odawa  
8 Indians or the consultant for another party in that party's business dealings with  
9 the Tribe, while serving as a Tribal Council member, or as Chairperson or Vice-  
10 Chairperson, or within one (1) year of serving in office.

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12 **4.** Shall not serve as a Tribal Council member within seven (7) years of  
13 completion of a sentence or probation upon being convicted of a felony, unless  
14 such conviction has been vacated or overturned.

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16 **5.** Tribal Council members may not hold more than one full time paid  
17 position even if they decline pay for one of the positions.

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20 **B.** In order to remain qualified to hold the office of Tribal Chair or Vice Chair,  
21 the person must meet and maintain the following constitutionally mandated  
22 qualifications:

23  
24 **1.** The Chairperson and Vice-Chairperson shall be Tribal members and at  
25 least eighteen (18) years of age.

26  
27 **2.** Shall not serve as Chairperson or Vice-Chairperson within seven (7) years  
28 of completion of a sentence or probation upon being convicted of a felony, unless  
29 such conviction has been vacated or overturned.

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31 **3.** The Chairperson and Vice-Chairperson will reside within the Reservation  
32 of the Little Traverse Bay Bands of Odawa Indians no later than ninety (90) days  
33 after the general election for the term of their office.

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- 4. Shall not be employed by the Little Traverse Bay Bands of Odawa Indians Tribal government or the Tribal Governmental Administration, but may work in other Tribal enterprises but shall not have a vote on any issue.
  
- 5. Shall not be a paid consultant for the Little Traverse Bay Bands of Odawa Indians or the consultant for another party in that party’s business dealings with the Tribe, while serving as Chairperson or Vice-Chairperson, or within one (1) year of serving in office.
  
- 6. May not hold more than one full time paid position even if they decline pay for one of the positions.

**SECTION V. CIVIL VIOLATIONS**

- A. The Tribal Prosecutor shall be the Chief Law Enforcement Officer of the Tribe and shall represent the Tribe in all violations of Constitutionally Mandate Qualifications investigations and prosecutions in Tribal Court, including, but not limited to:
  - 1. Reviewing all complaints of violations of Constitutionally Mandate Qualifications.
  
  - 2. Having the discretion to prosecute violations of the of Constitutionally Mandate Qualifications by determining whom to charge and what charges to bring.
  
  - 3. Reviewing all requests for warrants to determine if all Constitutional and legal requirements are satisfied prior to approval or authorization.
  
  - 4. Having the authority to issue subpoenas for compelling or producing documentation in investigations.

1           **5.**       Having the authority to grant immunity to a witness.

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3   **B.**       If a former Tribal Chair, Vice-Chair or a Tribal Council member becomes a paid  
4 consultant for the Little Traverse Bay Bands of Odawa Indians or the consultant for  
5 another party in that party's business dealings with the Tribe within one year of serving,  
6 the Prosecutor may take action to address the matter, including suing for damages to the  
7 Tribe.

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#### 10   **SECTION VI. SAVING CLAUSE**

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

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#### 20   **SECTION VII.               EFFECTIVE DATE**

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

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#### 27   **SECTION VIII.   IMPLEMENTATION DATE**

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29       This Statute, if enacted, shall be implemented immediately or upon the date the Election  
30 Board certifies the results of the election currently in progress whichever is the latter.

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### 33                                   **CERTIFICATION**

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