

1 **WAGANAKISING ODAWAK STATUTE 2018-___**
2 **DEPARTMENTAL APPEALS BOARD**

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5 **SECTION I. PURPOSE**
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7 This purpose of this Statute is to create a Departmental Appeals Board to hear administrative
8 appeals from Executive Department, Commission, Program, Agency or Board decisions within
9 the Tribe. The Departmental Appeals Board (DAB) provides for an impartial, independent
10 review of disputed administrative decisions made by Executive Departments, Commissions,
11 Programs, Agencies or Boards and repeals and replaces WOS 2009-011 Education Appeals
12 Board; and replaces WOS 2016-008 Nibiish Naagdownen “The Care of Water”: Clean Water Act,
13 Section XL, D. Environmental Appeals Board Review; and repeals and replaces any other
14 Statute or Regulation that provides for administrative appeals.
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17 **SECTION II. DEFINITIONS**
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19 **A.** “Applicant” means any person or entity applying for a permit, license, assistances,
20 benefits or services.
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22 **B.** “Board” or “DAB” means the Departmental Appeals Board.
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24 **C.** “Department” mean a Department, Commission, Program, Agency or Board, or it sub-
25 entities within the Executive Branch of the Little Traverse Bay Bands of Odawa Indians
26 government.
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29 **SECTION III. CREATION OF THE BOARD**
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31 **A.** The Tribal Council hereby creates the Departmental Appeals Board within the Executive
32 Branch, composed of a pool of qualified Tribal Citizens at least eighteen (18) years of age, who
33 has demonstrable knowledge of mediation, dispute resolution or hearings.
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1 **B.** The Tribal Chair shall nominate the Tribal Citizens that shall compose the pool of
2 qualified Tribal Citizens for Tribal Council approval.
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4 **C.** Tribal Council shall approve such nominations by a majority vote.
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7 **SECTION IV. DUTIES AND AUTHORITY OF THE BOARD**
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9 **A.** The Board shall have the following duties and authority:
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11 **1.** Hold appeal hearings and provide an opportunity for the parties to appear before
12 the Board.
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14 **2.** Allow for the applicant, permittee or any interested person to appeal the
15 Department’s decision within thirty (30) days of issuance of the decision.
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17 **3.** Hear all appeals as set out in statutes and regulations administered by the
18 Executive Department, Commission, Program, Agency or Board.
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20 **4.** Allow for the entire decision or any portion of a Department’s decision to be
21 appealed.
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23 **5.** Affirm, modify, or reverse the decision of the Department based on evidence
24 presented to the board at a hearing.
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26 **6.** All decisions shall be in writing and posted on the tribal website within 30 days of
27 the hearing.
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30 **SECTION V. EXECUTIVE DEPARTMENTS, PROGRAMS, AGENCIES OR BOARDS.**
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32 The Board shall have the authority to hear appeals involving the following:

33 1. Decisions related to health benefits and services.

34 2. Decisions related to natural resources or environmental resources.

35 3. Decisions related to eligibility for assistances, benefits or services under Human
36 Services, Education or Housing.

- 1 4. Decisions related to Tribal Citizenship enrollment.
- 2 5. Decisions related to permits, applications or licenses including gaming licenses,
- 3 foster-care or zoning.
- 4 6. Decision related to Education and scholarships.
- 5 7. All other Executive administrative decisions made by Executive Departments,
- 6 Commissions, Programs, Agencies or Boards.
- 7 8. Decision related to Gaming license.

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10 **SECTION VI. MEETINGS**

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12 The Executive may appoint a temporary ad-hoc Board to develop the initial policies, procedures
13 and forms for holding appeal hearings.

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16 **SECTION VII. STANDARD OF REVIEW**

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18 **A.** Following a final decision of the Department, any Applicant who disagrees with the final
19 decision, has a right to file an appeal with the Board.

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21 **B.** The Board shall give deference to the Department’s interpretations of the regulations and
22 statutes, unless such interpretations are unreasonable. Unreasonable means that the decision is
23 arbitrary, capricious, or manifestly contrary to the statute or regulation. The Board shall only
24 overrule the decision of the Department if the evidence cannot reasonably be construed to
25 support the action of the Department.

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28 **SECTION VIII. SEVERABILITY**

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

