Waganakising Odawak Statute 1995005

LITTLE TRAVERSE BAY BANDS
NATURAL RESOURCE COMMISSION ORDINANCE

I. GENERAL PROVISIONS.

A. The Little Traverse Bay Bands of Odawa Indians has determined that it is in the best interests of its members to regulate the wise utilization of Natural Resources within its jurisdiction in order to promote, honor and respect our traditional spiritual and physical relationship with the land and waters and resources on, above, below and within the land and waters.

B. This Ordinance is adopted under the provisions of the Constitution and By-laws of the Little Traverse Bay Bands of Odawa Indians, the governance of which was recognized and extended by Section 8(a)(2) of Public Law 103-324. It is intended that this Ordinance continue in full force and effect not only until such time as the Little Traverse Bay Bands of Odawa Indians adopt a new constitution under the Indian Reorganization Act, as authorized by Section 8(a)(1) of Public Law 103-324, but thereafter as well, unless and until it is modified, amended or revoked by the duly authorized and elected governing body as created by such new constitution.

C. Definitions. In the implementation of this Ordinance, the following terms shall have the meanings set forth:

1. "Commission" shall mean the LTBB Natural Resources Commission consisting of a five (5) member body, as created pursuant to Article II of this Ordinance, with the powers and authority vested therein pursuant to this Ordinance.

2. "Commissioner" shall mean the individual designated to head of Commission who shall have the powers and authority vested in that office pursuant to this Ordinance.

3. "Associate Commissioner" shall mean one of the four (4) members of the Commission selected to serve thereon according to Article II of this Ordinance, with the powers and authority vested in such members pursuant to this Ordinance.

4. "Tribal Council" shall mean the Board of Directors of the Little Traverse Bay Bands of Odawa Indians.

5. "Valid signatures" shall mean signatures of members of the Little Traverse Bay Bands of Odawa Indians freely given and not obtained through fraud or coercion.

6. "LTBB" shall mean the Little Traverse Bay Bands of Odawa Indians.

II. NATURAL RESOURCE COMMISSION.

A. There is hereby created the Natural Resources Commission, which shall consist of five (5) persons selected according to Section B of this Article, which Commission is created for the purposes described in Article I of this Ordinance. The Commission is charged with the oversight and regulation of utilization of natural resources within its jurisdiction and shall exercise the powers and authorities described in Article IV hereof and such other powers and authorities as may be delegated thereto from time to time by the Tribal Council by amendment of this ordinance or by separate ordinance.

B. The Natural Resources Commission shall consist of the following persons to be selected according to Section C of this Article:

1. A Commissioner who shall serve as the Chair of the Commission and shall exercise the duties and responsibilities as set forth in this Ordinance. The Commissioner shall be a duly enrolled member of the Little Traverse Bay Bands of Odawa Indians, shall be at least 18 years of age upon selection to his or her first term of office.

2. Four (4) Associate Commissioners, who shall have the duties and responsibilities as set forth in this Ordinance. An Associate Commissioner shall be a duly enrolled member of the Little Traverse Bay Bands of Odawa Indians, shall be at least 18 years of age upon selection to his or her first term of office.

3. Ex Officio Members, who shall serve in advisory capacities, who shall have no vote, and who shall have additional qualifications as follows: no more than two ex officio members shall serve at any time and such members will be representative of federal, state or tribal resources agencies.

C. The Commissioner and the Associate Commissioners shall be selected as follows:

1. Initial appointment. The Tribal Council shall appoint a Commissioner, two (2) Associate Commissioners who shall serve for two (2) years and two (2) Associate Commissioners who shall serve for full four (4) year terms.

2. Future appointments. Approximately two (2) years after the initial appointment of a Commissioner and Associate Commissioners to the Commission, and every four (4) years thereafter, at the expiration of the terms of two of the Associate Commissioners, the Tribal Council shall fill such vacancies by appointment. Approximately four years after the initial appointment of a Commissioner and Associate Commissioners to the Commission, and every four (4) years thereafter, at the expiration of the terms of the Commissioner and the other two Associate Commissioners, the Tribal Council shall fill such vacancies by appointment.

3. At least two (2) weeks prior to any meeting during which future appointments to the Commission will be made, the Tribal Council shall publicize that it will be making such appointments and shall seek applicants for appointment and nominations of individuals to be appointed.

D. The term of office of the Commissioner shall be four (4) years, and an individual may serve a total of two (2) consecutive terms in such capacity, whether or not consecutive. The term of office for Associate Commissioner shall be four (4) years, and an individual may serve a total of three (3) consecutive terms in such capacity, whether or not consecutive. Serving a term in the capacity of Associate Commissioner shall not be deemed to be a term as Commissioner.

E. Immediately upon appointment, the Tribal Chairman shall administer the oath of office to the Commissioner and to Associate Commissioners, which oath of office shall include a commitment to uphold the Constitution and laws of the Little Traverse Bay Bands of Odawa Indians and to perform faithfully and diligently the

duties and responsibilities set forth in this ordinance and the mandates of the Commercial and Subsistance Fishing Ordinance.

F. Removal from the office of Commissioner or Associate Commissioner.

1. Grounds for removal of an individual from the office of Commissioner or Assoiate Commissioner shall include:

a. Conviction of a felony in Tribal, State or Federal court during a term of office;

b. Fraud, conspiracy to commit fraud or material misrepresentation or malfeasance in the performance of duties and responsibilities under this ordinance;

c. Failure to attend three consecutive meetings of the Commission without valid excuse.

2. Procedure for removal of an individual from the office of Commissioner or Associate Commissioner shall afford all parties all protections guaranteed by the Indian Civil Rights Act, 25 U.S.C. 1302, and shall be as follows:

a. Upon receipt of a petition signed by at least fifty (50) members of the Little Traverse Bay Bands of Odawa Indians, or by two Associate Commissioners or by the Commissioner and one Associate Commissioner, the Chairman of the Little Traverse Bay Bands of Odawa Indians shall call a special meeting of the Tribal Council to deal with a request to remove the Commissioner or a Associate Commissioner.

b. In the event the Tribal Council determines that a sufficient number of valid signatures are affixed to the petition and that the charges set forth in the petition, if verified, constitute grounds for removal of the Commissioner or an Associate Commissioner from his or her appointed position, the Tribal Council shall set a date for hearing the charges on the petition and shall provide notice to the Commissioner or Associate Commissioner whose removal is being sought.

c. Notice to the Commissioner or Associate Commissioner whose removal is being sought shall be served no later than two (2) weeks prior to the date set for the hearing, shall include the date, time and location of the hearing, shall attach a full and complete copy of the petition seeking removal, and shall attach a copy of the rules to be followed during the hearing. Upon good cause shown, the Tribal Council may postpone the hearing to a later date. Notice shall also advise the recipient of the availability of Tribal Council subpoena power to require the presence of any witness or the production of any document which the recipient deems necessary in order to attempt to defend against the charges contained in the petition.

d. The Tribal Council shall also provide copies of the notice to the Commissioner and all Associate Commissioners and to each member of the Little Traverse Bay Bands of Odawa Indians who signed the petition, advising each of them of the opportunity to appear and to present evidence, either in support of the charges against the Commissioner or Associate Commissioner whose removal is sought or in support of the defense of such Commissioner or Associate Commissioner. Any person who has properly signed such petition shall have the ability to request the Tribal Council to

issue a subpoena to require the presence of witnesses or production of documents deemed necessary to support the charges contained in the petition.

e. The Tribal Council shall preside at the hearing of the charges contained in any such petition and shall allow as much time as necessary for the testimony of witnesses and presentation of evidence in support of the charges, as much time as necessary for the testimony of witnesses and presentation of evidence to refute the charges, and such time as the Tribal Council deems appropriate for summary statements and arguments. At any time, the Tribal Council may recess the hearing until a later time certain.

f. Upon the conclusion of the presentation of evidence and of summary statements and arguments, the Tribal Council shall deliberate in closed session and shall either dismiss the petition or shall remove the Commissioner or Associate Commissioner charged in the petition, upon such findings of fact as may be appropriate. The decision of the Tribal Council shall be final, and no appeal to any other tribunal shall be available.

G. In the event a vacancy occurs in the office of Commissioner or Associate Commissioner, by virtue of death, resignation or removal, the vacancy shall be filled in the following manner:

1. If one year or less remains of the term of office which has become vacant, the Tribal Council shall appoint a qualified member of the Little Traverse Bay Bands of Odawa Indians to fill the remaining term of office without seeking applications or nominations therefor.

2. If more than one year remains of the term of office which has become vacant, the Tribal Council shall comply with the requirements of Article II, Section C(3) prior to appointing a qualified member of the Little Traverse Bay Bands of Odawa Indians to fill the remaining term of office.

III. MEETINGS OF THE COMMISSION.

A. Public Informational Meetings. The Commission shall have public informational meetings, to be held at large, centrally located facilities, at least once (1) time per year at such dates, times and locations as may be designated, subject to the following requirements:

1. The agendas of such meetings shall be primarily informational in nature.

2. Two (2) Associate Commissioners or the Commissioner and one Associate Commissioner shall constitute a quorum at such meetings.

3. Substantial time shall be set aside at each such meeting to permit the membership of the Little Traverse Bay Bands of Odawa Indians the opportunity to provide input on any aspect or issue which is relevant to the purpose and authority of the Commission.

4. Notice of such meetings shall be published in local periodicals wherever concentrations of members reside no later than two weeks prior to such meeting, such notice to set forth the place, date, time and duration of such meeting and the agenda for such meeting.

5. Complete minutes of such meetings shall be taken and retained, and shall become a part of the legislative history of the Commission.

B. Regular meetings. Regular meetings of the Commission shall be held once each month for the purpose of conducting the business of the Commission. Regular meetings will be subject to the following requirements:

1. Notice of such meetings, including the date, time and location, shall be provided to each member of the Commission at least 14 days prior to the date of the meeting. Notice shall be deemed to be provided upon being sent by telefax.

2. (the Commissioner shall have a vote on all issues except as provided in this ordinance.

3. (Roberts Rules of Order?)

6. Complete minutes of such meetings shall be taken and retained, subject to the exception contained in Section D of this Article, and shall become a part of the legislative history of the Commission.

C. Special meetings. Special meetings of the Commission shall be held as needed upon the directive of the Commissioner or any two Associate Commissioners upon receipt of 24 days notice in writing delivered to all members. Notice shall be deemed to be provided upon being sent by telefax. All other provisions applicable to regular meetings shall apply to special meetings of the Commission.

D. Regular and special meetings shall be conducted pursuant to the following additional rules:

1. It shall be the standard tht all meetings of the Commission shall be open to all members of the Little Traverse Bay Bands of Odawa Indians;
however, the Commissioner or a majority of the present Associate Commissioners may direct all or a portion of a regular or special meeting to be closed to everyone except designated participants, when such closed meeting is necessary to deal with personnel issues or to discuss any matters deemed to require a closure. 2. Minutes of all regular and special meetings of the Commission shall be transcribed, shall be kept on permanent file in the offices of the Commission, and shall be available for inspection by any member of the Little Traverse Bay Bands of Odawa Indians upon reasonable advance notice; provided, however, that as to any closed meeting or closed portion of a meeting, the minutes shall merely reflect that a closure took place.

3. Minutes of all closed meetings or closed portions of meetings of the Commission shall be transcribed and shall be kept on permanent file in the confidential files of the Commission. Such minutes may be released only upon a majority vote of the Commission explicitly authorizing such release.

4. Conflict of interest provisions contained in article I section 6 of the By-Laws of the Little Traverse Bay Bands of Odawa Indians shall apply to this Commission.

IV. POWERS AND AUTHORITIES OF THE LTBB NATURAL RESOURCES COMMISSION.

A. The primary responsibility of the Commission shall be to implement the provisions of this ordinance and the Commercial and

Subsistance Fishing Ordinance.

B. The Commission shall have the following additional powers;

1. To promulgate rules for the purpose of implementing this ordinance and the aforementioned Commercial and Subsistance Fishing Ordinance; to issue orders and directives not inconsistent with either ordinance; to take any and all steps necessary, not inconsistent with other Ordinances, to carry out the purposes set forth in Section A of this Article.

2. To employ personnel to carry out the responsibilities with which the Commission is charged, including to enforce Commission orders and directives subject to the Personnel policies of the Little Traverse Bay Bands of Odawa Indians; to retain by contract such independent contractors, professional services and whatever other services may be necessary to carry out the dictates of this ordinance and the aforementioned Commercial and Subsistance Fishing Ordinance.

3. To enter into contracts of all types with agencies of Federal, State, local or other Tribal governments, with private parties, including individuals, partnerships, corporations or other enterprises, subject to ratification by the Tribal Council.

4. To issue, suspend or revoke licenses contemplated by this ordinance and the aforementioned Commercial and Subsistance Fishing Ordinance. Subject to the requirements of the Indian Civil Rights Act.

5. To establish a tribunal consisting of three (3) of which at least one will be a tribal elder for the purpose of conducting such hearings as may be necessary under the provisions of this ordinance or under the provisions of any other ordinances which this Commission is charged with implementing. Such Tribanal will operate until such time as the LTBB creates a court of _____Civil and Criminal jurisdiction_____ with due authority of the Tribunal, whereupon the Tribunal shall cease to exist. The Tribunal shall hear appeals from decisions denying the issuance of any license, license suspensions or revocations, allegations of violation of this ordinance or any ordinance which this Commission is charged with implementing, violation of any rule, regulation or directive issued by the Commission, confiscation of gear or equipment, or any other matter arising under this Ordinance. In establishing such tribunal, the Commission may vest the tribunal with full authority to subpoena witnesses and records, impose penalties and enter judgments of both a legal and equitable nature, provided however that the Tribunal shall in all cases adhere to all requirements of the Indian Civil Rights Act, Title 25, United States Code Section 1302.

V. POWERS OF THE COMMISSIONER.

The Commissioner shall have the following powers and authorities:

A. To chair all meetings of the Commission.

B. To act in all respects on behalf of the Commission between meetings of the Commission, subject, however, to ratification by the Commission of any action taken.

C. To represent the Commission in all respects whenever it is

appropriate for the Commission to be represented.

D. To serve on other boards or commissions as a representative of the Commission.

E. To delegate to an Associate Commissioner, or to an employee as appropriate, any of the duties and responsibilities of Commissioner.

F. To exercise any other authority delegated to the Commissioner by ordinance or by action of the Tribal Council.

VI. SAVINGS CLAUSE.

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

Little Traverse Bay Bands of Odawa Indians
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Petoskey, Michigan 49770

616-348-3410

RESOLUTION NUMBER 03269503

To support the Little Traverse Bay Bands of Odawa Indians adoption of the Natural Resources Commission Ordinance as presented and amended on March 26, 1995.

WHEREAS the Little Traverse Bay Bands of Odawa Indians, as stated in our Articles of Incorporation was created among other things to provide for the perpetuation of our way of life and the welfare and prosperity of our people, to preserve the right of self-government, to protect our property and resources, **AND**

WHEREAS also in our articles we are charged with identifying and maintaining a Tribal membership roll, **AND**

WHEREAS the Little Traverse Bay Bands of Odawa Indians federal tribal status was reaffirmed with the signing of PL 103-324 on September 21, 1994, **AND**

NOW THEREFORE BE IT RESOLVED that the Little Traverse Bay Bands of Odawa Indians Tribal Council in open meeting supports the LTBB Natural Resource Commission Ordinance as presented and amended on March 26, 1995.

Resolution passed unanimously.

Signed this day 26 March 1995

Barry Laughlin, Tribal Secretary