WAGANAKISING ODAWAK STATUTE 1995020

INTERIM TRIBAL COURT
COMPOSITION, DUTIES AND POWERS

SECTION I: PURPOSE

Pursuant to Article VII (g) the Constitution and Bylaws of the Little Traverse Bay Bands of Odawa Indians, the Tribal Council, in the exercise of its full sovereign authority, hereby establishes the Tribal Court, and its duties and functions.

SECTION II: JUDICIAL POWER AND JURISDICTION

A. Judicial Power Vested

The judicial power of the Little Traverse Bay Bands of Odawa Indians shall be vested in a tribal court system. The tribal court system shall be composed of a court of general jurisdiction (the "Tribal Court"), and appellate court (the "Tribal Appellate Court"), and such lower courts as the Tribal Council may from time to time establish. Rulings of the Tribal Appellate Court are final and binding. Rulings of the Tribal Appellate Court cannot be appealed to the Tribal Council or any other jurisdiction unless specifically allowed by Federal law.

B. Jurisdiction

The judicial power shall extend to all cases arising under the Tribal Constitution, statutes, ordinances, regulations, or judicial decisions, and all cases for which the Tribal Court is the appropriate forum based on the Tribe's inherent sovereignty, traditional custom or Federal law.

SECTION III. COMPOSITION OF THE TRIBAL COURT SYSTEM

A. Tribal Court

The Tribal Court shall be a court of general jurisdiction and shall consist of one (1) judge and one (1) or more associate judges. All civil and criminal matters shall be initially brought before the Tribal Court. Decisions of the Tribal Court may be appealed to the Appellate Court in accordance with the Rules of Practice and Procedure developed under section VII of this statute.

B. Tribal Appellate Court

The Tribal Appellate Court shall consist of three (3) judges. At least one (1) of the three (3) judges shall be a member of the Tribe, and at least one (1) of the three (3) judges shall be an attorney licensed to practice before the courts of a state in the United States.

SECTION IV: APPOINTMENTS, TERM AND COMPENSATION

A. Appointment to the Court of General Jurisdiction

The Judges of the Tribal Court and such lower courts as the Tribal Council may establish shall be appointed by an affirmative vote of five (5) of the seven (7) members of the Tribal Council.

B. Appointment to the Appellate Court

Each judge of the Tribal Appellate Court shall be appointed by an affirmative vote of five (5) of seven (7) members of the Tribal Council.

C. Tribal Court Term of Office

Members of the Tribal Court shall serve for terms of four (4) years, or until the Tribe adopts a new Constitution and makes judicial appointments under the new Constitution. There shall be no limitation on reappointment. Provided, to stagger terms, when the Tribal Council makes initial appointments, the Tribal judge shall be appointed to a four (4) year term, and the associate judge shall be appointed to a three (3) year term. All appointments thereafter, including additional associate judges, if any, shall be for four (4) year terms.

D. Tribal Appellate Court Term of Office

Members of the Tribal Appellate Court shall serve for terms of six (6) years, or until the Tribe adopts a new Constitution and makes judicial appointments under the new Constitution. There shall be no limitation on reappointment. Provided, to stagger terms, when the Tribal Council makes initial appointments, one person shall be appointed to a four (4) year term, one person shall be appointed to a five (5) year term, and one person shall be appointed to a six (6) year term. All appointments thereafter shall be for six (6) year terms.

SECTION V: ELIGIBILITY

A. Tribal Court

A person may be eligible to serve as a Tribal Court judge or associate judge only if he/she:

1. Has attained the age of twenty five (25), and

2 Is a member of the Little Traverse Bay Bands of Odawa Indians or is at least one quarter (1/4) American Indian; and

3. Is not a Tribal Council member or running to become a Tribal Council member; and

4. Has never been convicted of any felony by a court of competent jurisdiction unless the Tribal Council determines the person to be sufficiently rehabilitated.

B. Tribal Appellate Court

A person may be eligible to serve as a Tribal Appellate Court judge only if he/she:

1. Has attained the age of twenty five (25), and

2. Is not a Tribal Council member or running to become a Tribal Council member; and

3. Has never been convicted of any felony by a court of competent jurisdiction unless the Tribal Council determines the person to be sufficiently rehabilitated.

SECTION VI: JUDICIAL INDEPENDENCE

The Tribal Judiciary shall be independent from the legislative and executive functions of the Tribal government and no person exercising the powers of the legislative or executive functions of government shall exercise powers properly belonging to the judicial branch of government.

SECTION VII: PRACTICE AND PROCEDURE

The Tribal Judiciary shall by general rules establish the practice and procedure in all courts of the Tribe.

SECTION VIII: REMOVAL OF A TRIBAL JUDGE

A. Removal by Tribal Judiciary

A Tribal judge may only be removed by the Tribal Judiciary itself. The Tribal Judiciary may remove any judge by an affirmative vote of a majority of a panel consisting of all other members of the Judiciary, including both Appellate and Tribal Court Judges, only for one or more of the following reasons:

1. Unethical conduct, as defined by the Little Traverse Bay Bands of Odawa Indians Code of Judicial Conduct if adopted by the Tribal Council, or in the absence of such code, by the American Bar Association Code of Judicial Conduct;

2. Physical or mental disability which prevent the performance of judicial duties;

3. Persistent failure to perform duties;

4. Gross misconduct that is clearly prejudicial to the administration of justice; or

5. Ineligibility, under Section V of this ordinance, to serve as a member of the Tribal Judiciary.

B. Procedures for Removal

The Tribal Judiciary shall develop rules and procedures for removal of judges. These procedures shall at a minimum include the following:

1. If a member of the Tribal Judiciary believes that grounds exist for removal of another judge, he/she shall state the charges in writing, and distribute copies of the written charges to all members of the Tribal Judiciary, including the accused. As soon as practicable, but in no event more than sixty (60) days after receipt of the written charges, the Judiciary shall hold a hearing with all members present at which the accused shall have the opportunity to call and cross examine witnesses.

2. If a member of the Tribe believes that grounds exist for removal a judge, he/she shall state the charges in writing, and submit the written charges to the Court Clerk who shall distribute copies to each member of the Tribal Judiciary. After reviewing the written charges, the Tribal Judiciary shall by majority vote decide whether sufficient grounds exist to hold a removal hearing as described in this section B 1, which hearing shall be held as soon as practicable, but in no event more than sixty (60) days after receipt of the written charges.

SECTION IX: VACANCIES

Any vacancy in the Tribal Judiciary shall be filled by the Tribal Council in the same manner as the original appointment for the balance of the unexpired term.

SECTION X: SAVINGS CLAUSE.

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, or laws 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 statute, the entirety of the balance of the statute to remain in full and binding force and effect.

Certification

As Chairman and Secretary of the Little Traverse Bay Bands of Odawa Indians, the undersigned certify that this Tribal Court Statute was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a meeting held on December 17, 1995, at which a quorum was present, by a vote of 7 in favor, 0 opposed, and 0 abstentions.

Date: 12-29-1995

Frank Ettawageshik, Tribal Chairman

Barry Laughlin, Tribal Secretary