

## **WAGANAKISING ODAWAK STATUTE 2005-015**

### **ADMINISTRATIVE PROCEDURES ACT**

#### **SECTION I. PURPOSE**

This Administrative Procedures Act is hereby enacted to establish a standard set of requirements for Executive actions after enactment of a law. This statute shall repeal and replace the Resolutions and Regulations Procedures Statute, being Waganakising Odawak Statute 1996-001.

#### **SECTION II. DEFINITIONS**

- A.** The "Tribe" shall mean the Little Traverse Bay Bands of Odawa Indians.
- B.** "Tribal Codes of Regulation" shall mean procedures that implement a statute and that have the force of law.
- C.** "Administrative Procedures" shall mean procedures required by a statute or regulation to clarify the implementation of a statute or regulation. These procedures shall not be a rewrite of the statute but define how an office or officer will implement the daily activities of a statute such as applications procedures and forms for a Tribal program.
- D.** "Departmental Procedures" shall mean procedures not required by statute or regulation.

#### **SECTION III. TRIBAL CODES OF REGULATION**

- A.** Regulations required by law shall be called Tribal Codes of Regulation (TCR).
- B.** The Tribal Executive shall develop Tribal Codes of Regulation to implement statutes that require regulations.
- C.** Tribal Codes of Regulation shall be developed within 120 days of enactment of a law.
- D.** Tribal Codes of Regulations shall be forwarded to the Tribal Council for approval.
- E.** The Tribal Executive shall ensure that the benefits provided Tribal Members are carried out even if Tribal Codes of Regulation have not been developed or approved.

#### **SECTION IV. REQUIREMENTS OF TRIBAL CODES OF REGULATION (TCR)**

- A.** Tribal Codes of Regulation shall reflect the intent of the law, and shall be written in a manner that protects the best interests of the Tribal Membership.
- B.** Tribal Membership shall be provided an opportunity to comment on proposed

regulations prior to approval.

**C.** Tribal Codes of Regulation shall clearly identify who they are intended to apply in whole or in part.

**D.** Tribal Codes of Regulation shall be written in language that will be clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.

**E.** Tribal Codes of Regulation shall be forwarded to Tribal Council for approval.

- a. Tribal Codes of Regulation shall be considered approved within one month of submission, provided that Tribal Council shall have the authority to revoke part or all of the Tribal Codes of Regulation at any time after submission.
- b. Rejections shall be sent to the Executive with an explanation of why they were rejected.
- c. Rejections once rewritten shall be resubmitted to Tribal Council

**F.** Tribal Codes of Regulation must be approved or considered approved to carry the force of law.

**G.** Violations of Tribal Codes of Regulation shall be considered civil infractions and shall carry a maximum fine of \$100 and/or maximum 180 days incarceration, provided that any part of Tribal Codes of Regulation carrying such penalties shall require the express approval of Tribal Council. Any penalties that exceed levels listed in this statute must be identified explicitly by statute. Additionally all fines and cost recovered shall be deposited in the General Fund and subject to future appropriations.

## **SECTION V. ADMINISTRATIVE PROCEDURES**

**A.** Procedures required by law or regulation shall be called Administrative Procedures.

**B.** The Tribal Executive shall develop Administrative Procedures to implement statutes and regulations that require procedures.

**C.** Administrative Procedures shall be developed within 120 days of requirement.

**D.** Administrative Procedures required by a statute shall be forwarded to the Tribal Council for approval.

**E.** The Tribal Executive shall ensure that the benefits provided Tribal Members are carried out even if Administrative Procedures have not be developed or approved.

## **SECTION VI. REQUIREMENTS OF ADMINISTRATIVE PROCEDURES**

**A.** Administrative Procedures shall reflect the intent of the statute or regulation they are intended to implement, and shall be written in a manner that protects the best interests of the

Tribal Membership.

- B.** Administrative Procedures shall clearly identify who they are intended to apply in whole or in part.
- C.** Administrative Procedures shall be written in language that will be clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.
- D.** Administrative Procedures that require Tribal Council approval shall:
  - a. be considered approved within one month of submission, provided that Tribal Council shall have the authority to revoke part or all of the procedure at any time after submission.
  - b. Rejections shall be sent to the Executive to with an explanation of why they were rejected.
  - c. Rejections once rewritten shall be resubmitted to Tribal Council.

## **SECTION VII. DEPARTMENTAL PROCEDURES**

- A.** The Tribal Governmental offices, departments, and programs should develop Departmental Procedures to implement statutes and regulations that do not have a statutory requirement for procedures and when necessary to promote efficiency in their office.
- B.** Departmental Procedures are required to promote a fair and standard method of implementing daily activities of Tribal Departments.
- C.** Departmental Procedures shall reflect the intent of the *program*, statute or regulation they are intended to implement, and shall be written in a manner that protects the best interests of the Tribal Membership.
- D.** Departmental Procedures shall clearly identify who they are intended to apply in whole or in part.
- E.** Departmental Procedures shall be written in language that will be clear and easily understood by the individuals or agencies under the jurisdiction of the regulation.

## **SECTION VIII. EXECUTIVE MANDATES**

- A.** The Tribal Executive is hereby mandated to publish all documents authorized by this statute and provide a method for Tribal Membership input prior to approval and further shall accept Tribal Member input after approval.
- B.** The Tribal Executive is hereby mandated to develop a standardized format and numbering system for all Tribal Codes of Regulation, Administrative Procedures, and Departmental Procedures and establish a method of periodic review of approved regulations and procedures.

C. Tribal Codes of Regulation and Administrative Procedures may be presented for approval at the same time as their authorizing legislation.

D. The Tribal Executive is hereby mandated to enforce all approved Tribal Codes of Regulation and to implement all required Administrative Procedures.

#### **SECTION IX. EXECUTIVE RESOLUTIONS AUTHORIZED**

A. The Executive Branch is hereby authorized to use Executive Resolutions, Directives and other such instruments deemed necessary for operation of the Executive Branch provided that each instrument has an approved policy delineating its use. Resolutions under this section do not carry the force of law.

#### **SECTION X. TRIBAL COUNCIL RESOLUTIONS AUTHORIZED**

A. The Tribal Council is hereby authorized to use Tribal Council Resolutions, Directives and other such instruments deemed necessary for operation of the Legislative Branch provided that each instrument has an approved policy delineating its use and resolutions that do not provide for Executive approval or disapproval do not carry the force of law.

#### **SECTION XI. TRIBAL RESOLUTIONS**

A. **Certification.** Proof of passage of a Tribal Resolution shall be by written certification signed by both the Tribal Legislative Leader and the Tribal Secretary. The certification shall state at a minimum the date of passage, that a quorum of the Council was present, and a roll call record of the vote.

B. **Submission To Executive.** Upon passage and certification of Tribal Resolutions by the Tribal Council, the Tribal Council Secretary or designee shall send the certified original to the Executive for signature. Tribal Resolutions shall be enacted into law upon approval by signature of the Executive, or if not expressly vetoed by the Executive within thirty (30) days of submission. If expressly vetoed by written signature of the Executive within thirty (30) days of submission, such vetoed Tribal Resolution shall not become enacted law unless the Tribal Council, by an affirmative vote of seven (7) members of the Tribal Council in the same Election Cycle, votes to override a veto by the Executive.

#### **SECTION XII. SEVERABILITY**

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

**SECTION XIII. EFFECTIVE DATE**

Effective upon signature of the Executive or 30 days from Tribal Council approval which ever comes first.

**Certification**

As the Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on November 20, 2005 at which a quorum was present, by a vote of 7 in favor, 0 opposed, 0 abstentions, and 2 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Fred Harrington, Jr.	X			
Regina Gasco Bentley	X			
Mary Roberts	X			
Rita Shananaquet	X			
Alice Yellowbank	X			
Dexter McNamara	X			
Shirley Oldman				X
Melvin L. Kiogima				X
Beatrice Law	X			

Date: 12/16/05

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Beatrice Law, Legislative Leader

Date: 12/15/05

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Melvin L. Kiogima, Secretary

Pursuant to Article VII, Section D, Subsection 1. of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005 the Executive concurs in this action of the Tribal Council.

Date: 12-16-2005

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Frank Ettawageshik, Tribal Chairperson

