WAGANAKISING ODAWAK STATUTE # 2011-008
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SECTION I. PURPOSE

The purpose of this Statute is to set out the roles and functions of the Legal Department in accordance with the LTBB Constitution. This Statute repeals and replaces WOS 2007-009 and any other portion or portions of any and all Statutes that are inconsistent with this Statute.

SECTION II. CREATION OF LEGAL DEPARTMENT

A. Unlike Executive Departments under Article VII (D)(22), the Department falls under the ultimate authority of Tribal Council under Article VII (D)(14), but shall be available to assist the Executive and Executive Departments as set forth in this Statute.

B. The Department shall be made up of a General Counsel, Assistant General Counsel and Office of the Legislative Services Attorney.

1. The General Counsel, and the Assistant General Counsel as assigned by the General Counsel, shall provide legal services, counsel and representation of LTBB on legal matters, as per their contracts and/or job descriptions, which may include, but not limited to, negotiations with federal, state, local and tribal governmental entities, issues relating to economic development, reserved Treaty rights, Indian child welfare policy, litigation, and work with subordinate Tribal entities including Tribally Chartered Corporations, Enterprises, Executive Departments, and Executive Commissions, Committees and Boards. In the event that the Tribal government, or any Legislative or Executive officials or staff are sued in their official capacity, they shall defend such suits and insure that Tribal Council receives proper notification, and shall raise sovereign immunity as a defense unless Tribal Council has taken action expressly waiving sovereign immunity for the type of claim or specific case.

2. The Office of the Legislative Services Attorney shall provide legal services to Tribal Council and Tribal Council Committees as per contract, statute, and/or job description.

3. Additional assignments shall be dispersed between the Attorneys based on allocation of resources and areas of expertise, as recommended by the Department and allocated by Tribal Council.

C. The Department may also utilize outside attorneys and consultants within a budget adopted by Tribal Council within the scope of Tribal Council approved litigation or other approved activities. Any attorney contracts in excess of five-thousand dollars, ($5,000) must be individually approved by Tribal Council.

D. The Department will provide current updates to the Tribal Council on legal matters taken on behalf of the Tribe and any recommendations for final actions, that require Tribal Council approval under the Constitution, shall be presented to the Tribal Council prior to that action being taken.

E. In accordance with Constitution Article VII (D)(14) future Department attorney contracts must be approved by the Tribal Council.

SECTION III. CONFIDENTIALITY AND ATTORNEY/CLIENT PRIVILEGE

A. The attorney/client privilege to protect attorney work product, communications and information from unauthorized disclosure to any persons or entities outside of the Tribal government and governmental administration applies to any confidential communications between the Department and any branch of LTBB government, including elected and appointed officials, employees and agents.

B. Unless otherwise stated in an attorney contract and/or job description, the attorney/client privilege applies to the Tribe as a whole. Officials, staff and agents have no individual expectation of privacy or attorney-client confidentiality. Attorneys may share any pertinent legal information with supervisors and Tribal Council.

C. Matters deemed confidential in a Tribal Council closed session shall not be disclosed to persons or entities not present in the closed session, including other branches of LTBB government and staff, unless otherwise directed by Tribal Council.

SECTION IV. SEPARATION OF POWERS QUESTIONS

A. In the event of a disagreement between the Executive and Legislative Branches on a question involving Separation of Powers, the Department will participate in informal efforts to come to an agreement on such questions.

B. The Department works for the Tribe as a whole with specific duties as stated in Section II, therefore if the Executive and Legislative Branches continue to disagree after informal efforts are used to resolve the question involving Separation of Powers, then the Executive and Legislative Branches may jointly request a written analysis from the Department. This does not prohibit Department attorneys from participating in discussion or routine informational correspondence.

C. The General Counsel, and/or the Assistant General Counsel will only represent the position of the Executive Branch in Tribal Court, and the Legislative Services Attorney will only represent the position of the Legislative Branch in Tribal Court, if both the Executive and Legislative Branches concurs that it is in the Tribe's interest for such attorneys to represent such branches in seeking Tribal Court resolution of a Separation of Powers issue.

SECTION V. STAFFING

The Department shall begin operations with current staff of the Legal Department and the Legislative Services Attorney Office.

SECTION VI. BUDGET and ADMINISTRATIVE FUNCTIONS

A. The existing budgets for the Legal Department and the Legislative Services Attorney shall be used for the Legal Department.

B. Carry-Over Reserve Funds

1. Unspent annual budgeted funds for the Department shall carry over to the following year. Each year the Department may budget for expenditure of the cumulative amount of prior years appropriated and unspent funds. Any carryover funds not expended will be carried to future years indefinitely unless otherwise re-appropriated by the Tribal Council. The Department shall provide reports quarterly or as otherwise requested by Tribal Council, on the status of the amounts and expenditures of these carry-over funds.

2. If Tribal Council makes a special appropriation for a distinct project or specific litigation, such specially appropriated funds will carry over as long as the original approved litigation or project is still ongoing. At the conclusion of all approved litigation or project costs the remaining specific appropriated funds will revert to Prior Period Funds unless Tribal Council otherwise directs.

C. Administrative function for the Department will be through the Legislative Branch as appropriate.

SECTION VI. SAVINGS CLAUSE

In the event that any section, subsection or phrase 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 part 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 so long as the overall intent of the Statute remains intact.

SECTION VII. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

CERTIFICATION

As the Tribal Council Legislative Leader and Tribal Council Secretary, we certify that this Statute was duly enacted by Tribal Council Override of Executive Veto at a regular meeting of the Tribal Council of the Little Traverse Bay Bands of Odawa Indians held on May 01, 2011 at which a quorum was present, by a vote of 9 in favor, 0 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Marvin Mulholland	X			
Belinda Bardwell	X			
Melvin L. Kiogima	X			
Gerald V. Chingwa	X			
Rita Shananaquet	X			
Aaron Otto	X			
John Bott	X			
Regina Gasco Bentley	X			
Julie Shananaquet	X			

Date: 5-2-11

Julie A. Shananaquet, Legislative Leader

Date: 5-2-11

Regina Gasco Bentley, 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 Tribal Council hereby overrides the Executive veto.

Motion made by Secretary Gasco Bentley and supported by Councilor R. Shananaquet to accept Legislative Leader Julie Shananaquet verbal and written report for May 1, 2011.
Vote: 9 - Yes, 0 - No, - Abstained, – Absent
Motion carried.

Motion made by Councilor R. Shananaquet and supported by Councilor Chingwa to override Waganakising Odawak Statute Enjinaaknegeng Executive Veto as presented from the Executive.
Vote: 8 - Yes, 1 – No (Councilor Otto), 0 - Abstained, 0 – Absent
Motion carried.

Motion made by Councilor R. Shananaquet and supported by Councilor Chingwa to override Executive Veto Waganakising Odawak Statute Accounting Department.
Vote: 9 - Yes, 0 - No, 0 - Abstained, 0– Absent
Motion carried.

Motion made by Councilor R. Shananaquet and supported by Legislative Leader J. Shananaquet to accept Secretary Gasco Bentley's verbal report for May 1, 2011.
Vote: 9 - Yes, 0 - No, 0 - Abstained, 0– Absent
Motion carried.

Motion made by Councilor R. Shananaquet and supported by Secretary Gasco Bentley to accept the Appropriations and Finance Committee/Treasurer verbal and written report from Treasurer Bott's for May 1, 2011.
Vote: 9 - Yes, 0 - No, 0 - Abstained, 0– Absent
Motion carried.

Motion made by Secretary Gasco Bentley and supported by Councilor Kiogima to approve a moratorium on $4,500,000.00 of the current prior period funds of $5,674,090.00 until October 1, 2011.
Vote: 9 - Yes, 0 - No, 0 - Abstained, 0– Absent
Motion carried.

Motion made by Secretary Gasco Bentley and supported by Councilor R. Shananaquet to appropriate $100,000.00 of prior period funds to cover the costs of insurance for Biindigen employees and recommend Tribal Council request Executive to add this amount to budget for this item going forward.
Motion withdrawn.

Motion made by Treasurer Bott and supported by Councilor Chingwa to approve the appropriation of funding in the amount of $500,000.00 to the Michelle Chingwa Education Assistance (MCEA) fund to come from Prior year funds to supplement the program funding to maintain the 2011

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